

UMAR ABDULAYEV*
TAJIK GUANTANAMO DETAINEE IN NEED OF PROTECTION



Umar Abdulayev, a Tajik citizen, was captured in Pakistan after fleeing persecution in his own country and war and famine in Afghanistan. He left Tajikistan in 1992 with his family, and in 2001 was living at a refugee camp in Pakistan when he was abruptly arrested by Pakistani officials, who later sold him for a bounty to the United States. He remains in Guantánamo.

Summary: Umar Hamzayavich Abdulayev is a 30 year old citizen of Tajikistan, but has not lived there since 1992, when he fled at the age of thirteen with his parents, two brothers, and two sisters to Afghanistan to escape persecution. Umar's father was killed in 1994 while returning to Tajikistan to investigate the situation there. Umar lived in Afghanistan until late 2000, when he moved with his family to a refugee camp near Peshawar, Pakistan. He was arrested in 2001 and, like many of the men in Guantánamo, was sold for a bounty to the United States. Because his family fled the country and Tajik agents have repeatedly threatened him while interrogating him at Guantánamo, Umar cannot return to Tajikistan for fear of arrest, imprisonment, and torture by the Tajik government.

Background: Umar is the oldest child of a family that fled Tajikistan in 1992, when a civil war erupted in that country after the collapse of the Soviet Union. Umar was thirteen years old at that time, and had a sixth grade education. In Tajikistan, Umar grew up in a village called Sharora, in the Gisar region. Umar's native language is Tajiki, and he also learned Russian when he was in school during the time that Tajikistan was part of the Soviet Union. Umar's family left Tajikistan, along with virtually his entire village, and sought refuge in Afghanistan from the Tajik civil war. In all, the war caused the dislocation of 100,000 Tajiks.

From 1992 to 1994, Umar and his family lived in the Imam Sahib camp for Tajik refugees near Kunduz, Afghanistan. Beginning in 1994, they lived with other Tajik refugees in Camp Sahi near Mazar-e-Sharif, Afghanistan. By 2000, the Abdulayevs had migrated again, this time to Takhar, in the Talikhan region of Afghanistan.

In 1994, Umar's father went with other Tajik refugees to investigate the situation in Tajikistan after hearing in Afghanistan pleas on the radio from the Tajik government urging Tajik refugees to return home. Umar and his family subsequently learned that Umar's father had been shot while crossing the Tajik-Afghan border. Fearful for their own safety, Umar and his family decided to remain in Afghanistan after his father's death, relying upon aid from international refugee organizations.

In early 2001, Umar and his mother, younger brothers, and younger sister all moved from Afghanistan to Pakistan. In Pakistan, they lived in a government-sponsored camp principally for Afghan refugees in the vicinity of the city of Peshawar.

* Umar Abdulayev is represented by Matthew O'Hara at Reed Smith LLP. His profile was prepared by his counsel and the Center for Constitutional Rights. For more information about Guantánamo detainees in need of protection, contact emaclean@ccrjustice.org.

On November 25, 2001, Umar was arrested by Pakistani police while he was in a market in the refugee camp. Umar was handed over to what he understood to be Pakistani intelligence officials. While in their custody, Umar was the victim of coercion and torture, with the aim of forcing him to write in his own hand in notebooks that could be used as evidence against him. He was forced to copy from books that the intelligence officials marked and gave to him, with a promise that he would return to his mother if he did as directed. After he copied the notebooks as ordered, the men holding him told him they were going to return him home to his mother. They blindfolded him, and drove him away from the location where he had been held. When he arrived at his destination, he learned he had not been taken back to his mother, but instead was at a prison in Kohat, Pakistan.

After spending about nine days in the Kohat prison, Umar was turned over along with approximately thirty others to the custody of the U.S. military. From Kohat, Umar and his fellow prisoners were flown to a U.S. military prison camp in Kandahar, Afghanistan. After approximately a month in Kandahar, the United States sent Umar to Guantánamo Bay, Cuba in February 2002, where he has been held since that time without charge. Umar has not seen or heard from his mother or his brothers or sisters since he was grabbed out of the market in November 2001.

Fear of Torture and Persecution: Umar has a well-founded fear of persecution should he be forcibly returned to Tajikistan. Tajik government agents interrogated Umar and other Tajiks at Guantánamo. The Tajik agents repeatedly threatened Umar with imprisonment, torture and death if he were repatriated to Tajikistan. Moreover, two other Tajik prisoners told Umar that the Tajik agents had made similar threats to them. Those men, Rukniddin Sharipov and Sobit Valikhonovich, were nevertheless repatriated to Tajikistan in March 2007, and sentenced to 17-year prison terms.

The U.S. State Department's most recent report on Tajikistan documents conduct by the Tajik state consistent with the threats made to Umar. The report notes that torture and abuse were carried out during 2007 by security officials, including "systematic beatings, sexual abuse, and electric shock to extort confessions during interrogations." Further, according to the report, "prison conditions remained harsh and life threatening," arbitrary arrest and lengthy pretrial detention in Tajikistan are "serious problems," and "officers who committed abuse were rarely prosecuted."

Allegations: Umar has never had a fair hearing consistent with international and domestic norms of due process concerning the allegations made against him by the United States. The United States classified Umar as an enemy combatant based on notebooks that he was forced to write under the threat of torture. Indeed, Umar had only a sixth grade education, and lacked the education that would be necessary for him to have written the discourses.

Umar was not apprehended on a battlefield or carrying weapons. The United States was offering enormous bounties for alleged foreign fighters. Given that a Pakistani could make the equivalent of years' worth of income from selling a foreigner to the Americans, the notebooks were an effort to embellish a concocted story to enhance Umar's value as a bounty prospect.

Urgent Need for Resettlement: Umar desperately needs humanitarian protection so that he will not be repatriated to torture and persecution in his native country. As a poor refugee, he and his family never acquired any official status in Afghanistan or Pakistan. Umar is a mild-mannered, soft-spoken young man whose education was interrupted by war. He speaks, reads, and writes Tajiki and Russian; he also speaks Arabic and Uzbek, and some English.