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## **Breaking News: Supreme Court Rules in *Boumediene v. Bush/Al Odah v. U.S.*, Upholds Detainees' Rights**

In an historic decision, the U.S. Supreme Court ruled on June 12, 2008, that Guantánamo detainees have a Constitutional right to a hearing before a fair and neutral judge, in a legitimate court, to challenge their detention. In the case of *Boumediene v. Bush/Al Odah v. U.S.*, the U.S.'s highest court ruled that the provision of the Military Commissions Act which suspended detainees' right to habeas corpus was unconstitutional.

This decision marks the third time that the U.S. Supreme Court has upheld the rights of Guantánamo detainees – in 2004 in *Rasul v. Bush*, and in 2006 in *Hamdan v. Rumsfeld*, the court upheld detainees' rights to challenge their detention under federal law and their rights under the Geneva Conventions. The Bush Administration has, to date, resisted all of the high court's decisions.

Detainees' attorneys will now act quickly to bring their clients' cases before judges, as mandated by the court, and seek relief.

## **Military Commissions Charges Dropped Against Mohammad Al-Qahtani**

On May 13, 2008, the military commissions charges were dropped against Mohammad al-Qahtani, a Guantánamo detainee who was

subject to extensively documented torture and cruel, inhumane and degrading treatment during interrogations. The government had previously announced its plan to seek the death penalty against him.

Al-Qahtani's torture was personally approved by former Defense Secretary Donald Rumsfeld. The torture techniques used against him included beatings, severe sleep deprivation, forced nudity, sexual humiliation, attacks by dogs, temperature manipulation and religious abuse.

Al-Qahtani's attorney, Gitanjali Gutierrez of the Center for Constitutional Rights, subsequently revealed that al-Qahtani had attempted suicide after the death penalty charges were referred against him. In addition, the U.S. Justice Department released a report which described concerns by US security officials about the legality and acceptability of al-Qahtani's interrogations.

## **Four Prisoners Charged in Military Commissions**

Charges of conspiracy and providing material support to terrorism were filed against four detainees: Ghassan Abdullah al-Sharbi (Saudi), Jabran Said bin al-Qahtani (Saudi), Sufyan Barhoumi (Algerian), and Binyan Mohamed (British resident). Mohamed was a victim of the so-called "extraordinary rendition" program: he was previously transferred by U.S. forces to Morocco and tortured before being returned to U.S. custody.

Fourteen other detainees currently face military commission charges, while the vast majority of the 275 men at Guantánamo have been held for over six years in arbitrary detention without charge or trial. The military commissions, created by the 2006 Military Commissions Act, provide far fewer protections than otherwise provided for under U.S. law.

## **Recent Military Commission Actions Further Challenge Legitimacy of the Military Commission Process**

Several actions over the last month have raised further concerns about the military commissions processes gearing up to try a small number of prisoners at Guantánamo.

On May 30, 2008, the military commissions judge in Omar Khadr's case, Col. Peter Brownback, was suddenly removed from his position presiding over Khadr's commission. The judge had ordered prosecutors to supply a prison log of Khadr's treatment to the defense. Earlier, on May 23, 2008, the Supreme Court of Canada ruled that Canadian government officials had violated Khadr's rights by interrogating him in Guantánamo. Khadr was arrested and detained as a 15-year-old juvenile in Afghanistan and currently faces military commissions charges.

On May 10, 2008, Captain Keith Allred, another military commissions judge, disqualified a senior military

**(continued on pg. 2)**

official from having any involvement in the military commission of detainee Salim Ahmad Hamdan, on the grounds that the official is too closely aligned with the prosecution. A week later, the judge postponed the commission until after the Supreme Court's expected ruling in the lead Guantánamo detainee cases, which should be decided by the end of June 2008.

In addition, on May 28, 2008, the military attorney for Mohammad Jawad, another juvenile when picked up by U.S. forces, filed a motion to dismiss military commissions charges against him on the grounds that he was subject to systematic sleep deprivation as a form of torture during interrogation.

### **U.S. Announces Plans for Large Afghan Prison**

29 Afghans formerly imprisoned in Guantánamo or the U.S. military base at Bagram were released from Afghanistan's Pol-i-charki Prison on May 1, 2008. These prisoners are all transferees were transferred to Afghan custody by the U.S. military. On May 17, however, the U.S. military announced that it was planning to build a new 40-acre prison under U.S. control in Afghanistan at the Bagram base, indicating plans for expanded future indefinite detention in Afghanistan.

### **Congressional Committee Hears Testimony of Former Detainee**

For the first time, a former

Guantánamo detainee, Murat Kurnaz, testified before a Congressional committee on May 20, 2008. His testimony was part of two hearings in which witnesses called for the closure of Guantánamo, a solution for the approximately 50 refugees there who cannot be safely repatriated to their home countries, and an improvement of the conditions in the prison.

In addition, on May 6, a House Judiciary subcommittee heard testimony regarding the involvement of government lawyers in approving the use of torture and circumventing international legal obligations.

### **British former detainees sue UK government and intelligence agencies**

Eight former Guantánamo detainees filed lawsuits against the British government and its security services, on April 18, 2008, accusing them of complicity with the Americans in their unlawful detention at Guantánamo and seeking damages. All were released without charge after years of U.S. detention in Guantánamo.

### **Guantánamo Protestors Convicted in Washington, DC**

34 anti-torture activists were convicted in Washington, DC on Thursday, May 29, 2008. The activists were arrested during a protest at the Supreme Court on January 11, 2008, the sixth anniversary of the arrival of the first detainees at Guantánamo Bay. The activists are representing them-

selves under the names of real Guantánamo detainees. Some refused to speak, while others presented statements seeking to bring the stories of Guantánamo detainees inside U.S. courtrooms. The activists' protest is designed to draw attention to the denial of detainees' rights and demand the closure of the prison at Guantánamo.

#### **about the news briefing..**

This news briefing is produced monthly by the Center for Constitutional Rights, which coordinates the representation of detainees at Guantánamo Bay with a network of over 500 pro bono habeas counsel. It is translated into Arabic and Dari and is available online at

<http://www.ccrjustice.org/learn-more/reports/Guantanamo-newsletter>

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