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**Following Supreme Court victory: Hearings must proceed with speed, says coordinating judge**

On July 8, the federal district court judge overseeing the coordination of the habeas corpus lawsuits brought by the men at Guantanamo, ordered the Department of Justice to put aside their other cases and prioritize the men's challenges to their detention.

"The time has come to move these forward," the judge said during the first hearing to follow the Supreme Court's June decision in *Boumediene v. Bush* that affirmed the detainees' constitutional right to habeas corpus. "Set aside every other case that's pending in the division and address this case first."

The judge is coordinating most of the approximately 200 habeas corpus petitions filed by the men at Guantanamo, on behalf of most of the district court judges in Washington, DC. He set the schedule for the government to turn over its allegations against the detainees. These cases are now proceeding after the end of a prolonged delay.

**Military commissions can proceed, rules judge in Hamdan case**

On July 17, a U.S. District Judge issued a ruling refusing to delay the military commission of Salim Ahmad Hamdan, a Guantanamo detainee.

Hamdan is perhaps best-known for his successful 2006 challenge to the military commissions system, in which the U.S. Supreme Court ruled that the then-existing system was invalid. The Military Commissions Act, passed in October 2006 by Congress, created a new military commissions procedure. The military commissions do not follow normal procedures of evidence nor provide normal protections to defendants.

The district court judge ruled that any review of a military commission should occur after, rather than before, judgment in the military commission. After the judge's decision, Hamdan's military commission began on July 21 with Hamdan saying at the outset that he was not guilty of the charges against him.

On June 30, the 21<sup>st</sup> detainee to be charged in a military commission, Abdel Rahim al-Nashiri, was charged in matters related to the USS Cole bombing - a matter pursued in the past in the regular U.S. criminal courts. Also, on July 1, another military commissions judge ruled that the five men charged with matters relating to the September 11, 2001 attacks must receive separate hearings to prevent intimidation.

**Two Algerian men released from Guantanamo, held incommunicado for two weeks**

Two Algerian men held at Guantanamo were released from the detention center on July 2. Houari Abderrahmaan and Mustapha Hamlili

were held for two weeks by the Algerian government with no communication with their attorneys or families. They were finally released and reunited with their families. Hamlili was brought to his family's home in an ambulance, due to his poor health.

Both men are facing Algerian charges of belonging to a terrorist group operating abroad, charges based on the fact that both men left Algeria many years before and allegedly used false passports. Both were cleared for release by administrative review boards operated by the U.S. military at Guantanamo.

Nearly 270 men remain at Guantanamo. Approximately 23 Algerians remain in Guantanamo. At least five Algerians have explicitly expressed fears of repatriation due to a risk of torture or persecution. An estimated 50 Guantanamo detainees, including the five Algerians, cannot return home for fear of torture or persecution. So far, neither the U.S. nor other countries have been willing to give them safe haven. In fact, the U.S. has already sent 40 detainees back to countries that are known for human rights abuses, including Uzbekistan, Libya, Tunisia, and Egypt.

**Video of Omar Khadr interrogation released**

On July 15, videotaped recordings of the interrogation of Omar Khadr, who was brought to Guantanamo when he was 15 years old in 2002, were released by Khadr's Canadian attorneys. The videotapes show a

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clearly upset and distraught Khadr being interrogated by Canadian interrogators. Khadr relates that he was tortured in Bagram before being transferred to Guantanamo by the U.S. military. The videos were released to Khadr's attorneys by a court order.

On June 25, a Canadian judge ordered the Canadian government to disclose documents to Khadr's attorneys that revealed the treatment of Khadr by U.S. officials in order to prepare him for Canadian interrogation. The judge then proceeded to find that this treatment constituted torture. He ultimately found that Canada is "implicated" in that torture since they proceeded with the interrogation despite knowledge that this torture had been inflicted.

Canadian media reported that the documents ordered released by the court also revealed that Khadr had been subject to sleep deprivation by the military at Guantanamo. Khadr was put on the so-called "frequent flyer program," in which he was moved between cell blocks every three hours for a prolonged period so that he was unable to sleep and maintain a clear sense of his surroundings.

### **Ruling in Parhat case**

On July 1, 2008, a three-judge panel of the D.C. Circuit Court of Appeals ruled that Huzaiifa Parhat was wrongly classified as an "enemy combatant." Parhat, a Guantanamo detainee of the Uighur Muslim ethnic minority from Western China, challenged his classification as an "enemy combatant"

under the Detainee Treatment Act.

The court unanimously ruled that Parhat's classification was based on bare and unverifiable claims, without evidence to back them up. The court directed the government to either release Mr. Parhat, transfer him to another country or conduct a new military hearing at Guantánamo.

There are currently 17 Uighur detainees at Guantanamo, who cannot return to China due to fear of persecution and torture. Five Uighurs were resettled in Albania in 2006. All of Guantanamo's Uighurs had been living in Uighur communities in Afghanistan among Uighurs who had fled China.

### **Judge dismisses Guantanamo attorneys' challenge to illegal wiretapping**

On July 3, a judge in the Southern district of New York dismissed a Freedom of Information Act lawsuit, *Wilner v. NSA*, brought by lawyers, law firms, law professors and non-profit groups, including the Center for Constitutional Rights, representing detainees at Guantanamo Bay, seeking records of any National Security Agency wiretaps of their client communications. The judge's ruling allowed the government to refuse to confirm or deny the existence of the requested records. The judge refused to consider the attorneys' arguments that the wiretapping program was illegal.

Also, on July 13, George Bush signed into law the FISA Amendments Act of 2008, which provides immunity for telecommunications companies who allowed the government to use its networks to conduct illegal warrantless wiretapping.

The law further allows for the granting of broad, year-long wiretapping warrants to be used against foreign groups and people with only minimal assurances of protections for Americans whose conversations would be caught up in such surveillance nets. Furthermore, the new law also allows the government one week of surveillance of Americans without warrants before going before the secret FISA court - which has only rarely denied the government warrants - for approval. Lawsuits have already been filed challenging the new FISA law for its wiretapping provisions.

### **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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