



october 2008

First habeas hearings to begin in October

The first habeas corpus hearings for the men held in Guantánamo Bay are scheduled to begin in October. The hearings were initially scheduled to begin on October 6; however, a motion to delay for three weeks is currently under consideration. The first hearings will be held in the *Boumediene* case, the same case in which the Supreme Court ruled in June that the detainees at Guantánamo have a right to fair habeas hearings before a federal judge.

In the habeas hearings, the detainees will challenge the government's detention of them, and the government must present sufficient evidence to justify their ongoing detention. Most of the detainees at Guantánamo Bay have now been held for over six years. The *Boumediene* case includes that of Lakhdar Boumediene and five other men, all of whom were born in Algeria and lived in Bosnia. Five of the men are Bosnian citizens. The six men were imprisoned in Bosnia in October 2001; lacking evidence against them, the Bosnian supreme court ordered their release. Contrary to Bosnian law, upon their release they were transferred to the custody of the United States and have since been detained without charge or trial at Guantánamo Bay.

These first habeas hearings, presided over by Judge Richard Leon, a very conservative judge and reputed

to be the most pro-administration judge of those hearing Guantánamo detainee cases, of the District Court in Washington D.C., will be watched closely for their fairness and adherence to the accepted standards of a habeas corpus hearing. It is particularly important that in these first hearings, the men are able to present a full and comprehensive case for their release, and not barred by rulings excluding relevant evidence and testimony. Unfortunately, we expect these hearings will be held in closed session, and the men will not be allowed to be present in the courtroom for their own hearings, although a secure telephone link is expected. Most of the rest of the Guantánamo detainee cases are before a number of other judges in the D.C. District Court, and hearings in those cases have not yet been scheduled.

The government's Amended Return, entered in the case, is a 187-page document, much of which is classified, laying out the government's allegations against the men. It is, however, unsigned by any government official attesting to the truthfulness or the reliability of the allegations contained therein. On September 16, 2008, attorneys for the *Boumediene* detainees filed a pleading in Judge Leon's court, asking the judge to either order a government official to sign the document, attesting to the truth of the allegations contained, or strike the document from the record.

Government Delays in Filing Documents in Habeas Cases

On August 29, 2008, when the U.S. government was expected to file fifty sets of amended returns, laying out its allegations against the first fifty detainees whose habeas cases will be heard in federal court, government attorneys instead filed only 22 returns. The government had itself requested the August 29 date, over the objections of attorneys for the men held at Guantánamo, who had requested a far-earlier deadline for the filing of the papers.

The government, requesting an additional 30 days extension, stated that they could not handle the volume of requests due to difficulties handling classified information and an insufficient number of security clearances for government attorneys.

Detainees' attorneys demanded penalties against the government for its continued delay in filing. The filing delays prevent the cases from moving forward until the returns are filed.

On September 19, the judge presiding over the cases reluctantly granted the government's request, but urged the importance of haste, stressing that these men have now been held for over six years without charge, trial or fair hearing, and that further delay is unacceptable.

Uighurs to Have Hearing for Parole into the United States

On October 7, Judge Ricardo Urbina will preside over a hearing for 17 Uighur detainees currently held in Guantánamo Bay. The 17 detainees

(continued on pg. 2)

are members of the Uighur ethnic minority group in China, a Muslim group who face persecution by the Chinese government and have sought refuge elsewhere in the world.

The men have never been charged or tried. One of them, Huzaifa Parhat, challenged his determination of "enemy combatant" under the federal Detainee Treatment Act, and his designation was overturned by a ruling of the court. That ruling has since been adopted in four other similar Uighur cases.

Judge Urbina has asked the government to decide by September 30 whether the remaining 12 Uighurs should be accorded the same status. Parhat - joined by the four additional Uighurs whose "enemy combatant" status has been overturned - is arguing on October 7 for parole into the United States pending resettlement into a safe third country. Should the other 12 Uighurs' status also be overturned by October 7, they will join the motion for parole into the United States.

Many faith communities and human rights advocates in the United States have stressed their willingness to support the Uighur detainees if they are paroled into the U.S, with financial and other support. The Uighurs cannot return to China, where they face persecution.

The Uighurs' attorneys have requested that the detainees not designated as enemy combatants be granted entry into the United States in order to attend their hear-

ing and present testimony, a motion the government is opposing.

Recent Releases from Guantánamo

On September 2, two Afghani detainees and one Pakistani detainee were transferred to Afghanistan and Pakistan, respectively. The Pakistani, Mohammad Saad Iqbal Madni, who holds Pakistani and Egyptian citizenship, was seized in Jakarta, Indonesia in January 2002 at the behest of the CIA, rendered to Egypt where he was tortured for three months, turned over to the US and sent to Afghanistan and held for eleven months before being sent to Guantánamo,

One of the Afghans, Abdul Wahab, is a 35-year-old farmer, who was seemingly suspected based on his clothing, common among poor Afghan farmers. During military "hearings" received by every Guantánamo prisoner, he said, "Whenever I eat here in the detention center," he explained to his review board, "I am thinking about my children, what they have to eat. I wish you consider me as a normal person and send me home, please." When asked what he would do if released, he said, "When I go home I will make some money to buy some food for my children if they are alive. If they [have not] died already." He also reported passing a lie detector test, yet remaining imprisoned.

The other Afghan releasee, Mahbub Rahman, was 17 or 18 years old when he was captured. None of the releasees was ever charged with any crime or re-

ceived any real hearing.

In addition, on August 26, 2008, two men, Abdelli Feghoul and Mohammed Tarari, were transferred to Algeria. Both were held for 11 days of incommunicado detention by the Algerian domestic intelligence and security service, charged with "belonging to a terrorist organization active abroad," released under judicial supervision requiring weekly reporting, and are now home with their families.

Approximately 255 men remain at Guantánamo Bay.

Military Commissions Updates - Khadr trial to begin November 10, Obaidullah charged

The military commissions trial for Omar Khadr, who was arrested and detained as a 15-year-old juvenile in Afghanistan and currently faces military commissions charges, will begin on November 10, ruled Col. Patrick Parrish, the military judge presiding over the case. Khadr, a Canadian citizen who was seized in Afghanistan, and his attorneys have mounted a strong challenge to the government's charges in the military commission proceedings.

Lt. Cmdr. Bill Kuebler, Khadr's military attorney, noted that the trial may be pushed back further, as the judge has not yet ruled on Khadr's request for an independent psychiatric assessment of Khadr's mental health, and called upon the Canadian government to act to protect Khadr's rights.

In addition, on September 15, the government filed new military commissions charges against Obaidullah, an Afghan man held at Guantànamo. He is accused of providing "material support to terrorism" and "conspiracy" to violate the laws of war, the latter charge relating to allegations that he concealed explosives and allegedly had a notebook with information about how to wire explosives, charges that seem quite minor considering the events are alleged to have occurred in Afghanistan during the course of the U.S. invasion of the country, while the military commissions are theoretically designed to handle serious "war crimes" trials.

Government report on deaths released, labels deaths suicides

On August 22, 2008, the Naval Criminal Investigative Service (NCIS) released a report concluding that the three detainees who died at the base on June 10, 2006 - Saudis Yasser al-Zahrani and Mani al-Utaybi, and Yemeni Ali Abdullah Ahmed Naser al-Sulami - died as the result of suicide. The NCIS report included the release of over 3,000 pages of documents, released as a result of a Freedom of Information Act lawsuit.

At the time of their deaths, the three men had been detained incommunicado for more than four years, without charge or trial, in conditions constituting torture and cruel and inhuman treatment. The government had cleared al-Utaybi for transfer from Guantànamo to Saudi Arabia. Al-Zahrani, who

was only 17 at the time of his capture and 21 when he died, was also on the verge of being transferred to his home country. The government had decided years before his death that al-Sulami was not someone they could p r o s e c u t e .

The U.S. government never directly notified the men's families that their sons had died. Al-Zahrani's family heard his name on television and contacted the Saudi Ministry of Interior, which confirmed that he was one of the deceased. While Islamic law requires that burials be within 24 hours of death, the remains of the deceased were not returned to their home countries until at least five days after they died, and with missing organs and signs of injury and trauma, according to the families. Autopsies were performed on the men without notifying their families or obtaining the families' c o n s e n t .

Government spokespersons and military officials also made a number of derisive comments about the men following their deaths. One official referred to the deaths as "a good PR move to draw attention."

Two other men have died in U.S. hands at the base - Saudi Abd ar-Rahman Maadha al-Amry in May 2007, and Afghan Abdul Razzak Hekmati in Dec. 2007, reportedly of a treatable disease. Neither of these men was charged, and, like the three deaths in June 2006, neither of the recent deaths has been properly documented or accounted for.

about the news briefing..

This news briefing is produced monthly by the Center for Constitutional Rights, which coordinates the representation of detainees at Guantànamo 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>

If you would like to receive this newsletter, send us more information, or get in contact:

Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012
<http://www.ccrjustice.org/>
(212) 614-6443
LKates@ccrjustice.org