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Judge Denies Habeas Petition Of An Ill And Abused Libyan Detained At Guantanamo

Posted By [Andy Worthington](#) On May 11, 2010 @ 10:11 pm In [Law](#) | [1 Comment](#)



Photo: Brennan Linsley/AFP

On April 20, unnoticed by any media outlet whatsoever, a Libyan prisoner at Guantánamo, Omar Mohammed Khalifh (also identified as Omar Abu Bakr) lost his [habeas corpus petition](#).

I learned about the ruling through a “Guantánamo Habeas Scorecard” maintained by the [Center for Constitutional Rights](#), but although Judge James Robertson’s unclassified opinion is not yet available, to ascertain why he decided that the government had met its burden of proof in establishing that Khalifh was part of, or supported al-Qaeda and/or the Taliban, at least part of his story — and of the government’s allegations — can be found through [publicly available documents](#), and through representations made on his behalf by his lawyer, Edmund Burke. Other information has been provided to me by the former Guantánamo prisoner [Omar Deghayes](#), who is aware of how Khalifh has been treated at Guantánamo over the last eight years.

As I explained in my book [The Guantánamo Files](#), drawing on the publicly available information, Khalifh (or Abu Bakr) was seized during a series of house raids in Karachi, Pakistan in February 2002, which led to the capture of Abdu Ali Sharqawi, a Yemeni also identified as Sharqwi Abdu Ali al-Hajj, and more commonly known as Riyadh the Facilitator, and at least 15 other men. Sharqawi was subsequently rendered to Jordan, where he was tortured on behalf of the CIA, and the fruits of this torture were recently excluded as evidence in the habeas petition of another Guantánamo prisoner, Uthman Abdul Rahim Mohammed Uthman, as [I explained in a recent article](#). Without access to the unclassified opinion, I have no idea whether the government alleged that Khalifh was seized with Sharqawi, although it is noticeable that Burke claimed that he was not, and it is also worth noting that the majority of the other men seized at this time have been released from Guantánamo.

In [The Guantánamo Files](#), my analysis of Khalifh’s story was as follows:

It was claimed that he traveled to Afghanistan in 1998, that he was a member of the Libyan Islamic Fighting Group, who was “known to assist Osama bin Laden in purchasing weapons,” that he was a military trainer for the LIFG, that he established a training camp in summer 2001, that he “was a military leader of Arabs,” who fought against the Northern Alliance near Taloqan, that he “met with Taliban leaders to plan military operations,” and that he and his group were directed to Tora Bora [where a showdown took place between al-Qaeda and the US in November and December 2001] by Osama bin Laden.

One of his lawyers, Edmund Burke, refuted all the allegations, however. He acknowledged that his client had been a member of the LIFG, and had worked for the Taliban as a mine cleaner until 1998, when his right leg was severely damaged by a land mine, but said that he spent the ensuing years moving from hospital to hospital in Afghanistan to receive treatment for his leg, which was eventually amputated. He added that he moved to Pakistan in 2001, and was living in a school for boys when it was raided by Pakistani police. Pointing out that his client “can’t bear his weight on his good leg and only hobbles about with the help of a walker or crutches,” he explained,

“It’s very hard to imagine him as a combatant of any kind.”

In the government’s most recent allegations, it was noted that Khalifh had “worked overseeing Sudanese drivers for one of Osama bin Laden’s construction companies in Sudan,” had been “identified” as a trainer and the leader of a Libyan training camp near Kabul, visited by bin Laden, where he was “identified as someone whom others would approach to receive explosives training if they wanted to commit a terrorist attack,” had allegedly attended two other training camps in 1996-97, and had also been “identified” as “a military leader in charge of many Arabs from Saudi Arabia, Yemen, and other Gulf States while on the front line” in 2001, who, as alleged before, “would meet with other Taliban leaders to plan military operations.”

These sound like typically overblown assertions, based on dubious evidence produced by Khalifh’s fellow prisoners under duress, or as a result of bribery, or as a result of false confessions made by Khalifh himself, given that the other narrative identified by Burke — that he worked as a mine cleaner for the Taliban until he lost his leg — is also included, and suggests a much more humble role than the leadership role ascribed to him by the government’s unidentified witnesses.

Moreover, this conclusion is one endorsed by Omar Deghayes, who explained to me that Khalifh’s status has been exaggerated by the authorities in Guantánamo. “They call him ‘The General,’” Deghayes told me, “not because of anything he has done, but because he decided that life would be easier for him in Guantánamo if he said yes to every allegation laid against him.” Even so, as Deghayes also explained, this cooperation has been futile, as Khalifh has been subjected to appalling ill-treatment, held in a notorious psychiatric block where the use of torture was routine, and denied access to adequate medical attention for the many problems that afflict him, beyond the loss of his leg. As Deghayes described it, “He has lost his sight in one eye, has heart problems and high blood pressure, and his remaining leg is mostly made of metal, from an old accident in Libya a long time ago when a wall fell on him. He describes himself as being nothing more than ‘the spare parts of a car.’”

Given that this information is unlikely to have been included in the documents compiled by the government for its response to Khalifh’s habeas corpus petition, it’s possible that Judge Robertson’s unclassified opinion will reveal only that Khalifh lost his habeas petition based solely on his work as a mine cleaner for the Taliban, which, [under the detention standards decided by the courts](#), would be sufficient to justify his ongoing detention. If so, he will be yet another insignificant player in Afghanistan’s inter-Muslim civil war, which predated the 9/11 attacks, and had nothing to do with international terrorism, who is consigned to oblivion in Guantánamo on an apparently legal basis, even though there is no logical justification for equating the Taliban’s military activities (whether before or after the 9/11 attacks) with acts of international terrorism committed by al-Qaeda. In addition, he will also be another victim of Guantánamo, whose hidden story of abuse and exploitation never even surfaces publicly to reveal darker truths about how the prison has operated.

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