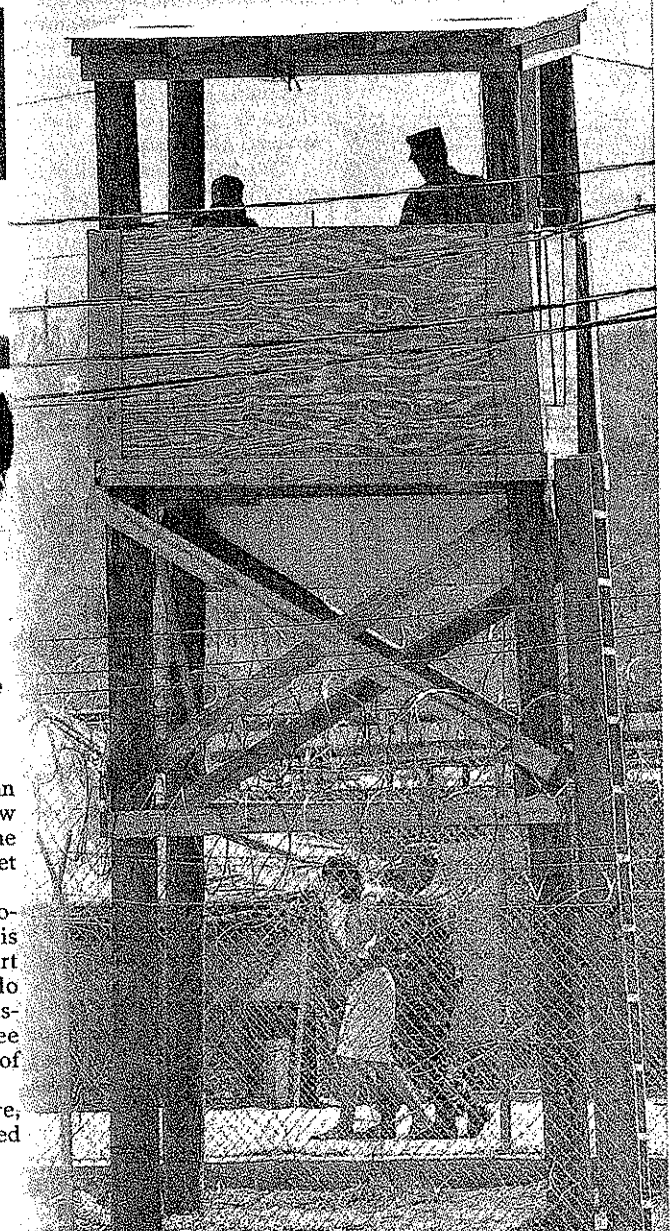


# The Miami Herald

THURSDAY, MARCH 31, 2005 | 102ND YEAR, NO. 198 | ©2005 THE MIAMI HERALD | FINAL | 35 CENTS

WAR ON TERRORISM | GUANTANAMO PRISON

## CAPTIVES TELL THEIR SIDE



From a Saudi with 24 siblings to a Libyan who admires Gandhi, the stories of once nameless Guantánamo detainees come alive in lawsuits in U.S. District Court.

BY CAROL ROSENBERG  
crosenberg@herald.com

WASHINGTON — Long before U.S. troops took him in shackles to Guantánamo Bay, Libyan exile Omar Deghayes got a law degree in London. He lost part of his sight, at age 4, to childhood swordplay.

He says his family fled their homeland for Europe in 1986 because his father was killed for opposing Libyan strongman Moammar Gadhafi. He says he admires Gandhi and Nelson Mandela.

Deghayes, 34, is also one of

the “worst of the worst” — an enemy combatant — now suing President Bush and the Pentagon to charge him or set him free from Camp Delta.

And, like dozens more so-called terror suspects, he is using the U.S. District Court here to systematically do something the Bush administration has fought for three years: He is telling his side of the story.

Far from the razor wire, inside the court that ordered

• TURN TO DETAINEES, 22A



### FIRST OF TWO PARTS

- **Today:** The prisoners — faceless no longer. At left, some of the 140 Guantánamo detainees who have filed petitions with the U.S. District Court.
- **Next:** A look at the lawyers bringing the cases.

AP FILE

WAR ON TERRORISM

# Detainees' stories emerge in court

\*DETAINEES, FROM 1A

Richard Nixon to turn over the Watergate tapes, the stories of the once nameless, faceless men kept captive at the U.S. Navy base in Cuba come alive in page after page of habeas corpus petitions for 140 Guantánamo captives from 23 countries from China to Saudi Arabia.

They include assertions of being kidnapped to Afghanistan so the United States could cast them as captured on the battlefield. They write of wives and children awaiting their return and complain about their conditions, medical care and isolation.

Some allege American interrogations turned to torture. Others say they are innocent, devout Muslims mistaken for Islamic militants.

### WAR POWERS

Bush administration lawyers have systematically fought the lawsuits, using the president's war powers to justify keeping scrutiny of Guantánamo's detainees outside the courts.

They argue the petitioners are terrorists whose interrogations have yielded valuable intelligence in the hunt for al Qaeda cells and the war to topple the Taliban. Commanders say they comply with a presidential order to treat the detainees humanely, and interrogations are strictly monitored.

Former captive Mamdouh Habib, 46, went home to Australia in January. But in his lawsuit, he argued that U.S. forces outsourced his case to Egypt, where interrogators used electric shock and water torture to force from him a false confession — that he knew some Sept. 11 hijackers.

Captive Abdulla al-Anazi sued in February. But little else is known about him — except that he is a double amputee who presumably lost both legs in battle and has 24 brothers and sisters in Saudi Arabia.

And there's Fahmi Abdulla Ahmed, in his 20s, the son of a Yemeni air force colonel who asserts he was captured by Pakistani police and handed over to Americans in Afghanistan. His lawyer, Adrian Stewart, describes him as a "shrimpy guy with black teeth" who says that U.S. troops humiliated him by shaving off his eyebrows and head hair — for a cross-shaped buzz-cut.

### HIGH COURT RULING

The prisoners' lawsuits have been stacking up since June, when the U.S. Supreme Court ruled that foreigners held in U.S.-controlled Cuban territory can contest their captivity in federal courts.

As a body, the petitions are

### PLOTTER OF TERRORISM REPORTEDLY HELD

WASHINGTON — (AP) — U.S. officials say one terrorism suspect imprisoned at Guantánamo Bay is a former Iraqi soldier and al Qaeda member who plotted with an Iraqi intelligence agent in August 1998 to attack the American and other foreign embassies in Pakistan with chemical weapons. There is no public record of such an attempt being made, although the U.S. Embassy staff in Islamabad was reduced that month amid heightened security concerns after the Aug. 7 truck-bomb attacks on the U.S. embassies in Kenya and Tanzania. On Aug. 20, 1998, the United States responded with cruise-missile attacks on al Qaeda training camps in Afghanistan and a target in Sudan.

The Iraqi, whose identity is being concealed by the Pentagon on privacy grounds, is further described as a "trusted agent" of al Qaeda leader Osama bin Laden and a member of the Taliban movement in Afghanistan. He was arrested in Pakistan in July 2002.

Those accusations were contained in a two-page "summary of evidence" presented to the Iraqi for his appearance before a Combatant Status Review Board at Guantánamo Bay in Cuba late last year. The evidence was meant to convince the three-member review board — which has heard all 558 detainee cases at Guantánamo Bay — that the government properly classified him as an "enemy combatant."

As a matter of policy, the government will not disclose which of the 558 detainees were among the 38 the review boards determined were not enemy combatants.

a "step by step" effort to "reestablish the rule of law and the principle that even the president is not above the law," says attorney Michael Ratner of New York's Center for Constitutional Rights, which has championed the effort.

An outspoken critic of the Guantánamo prison, Ratner said the lawsuits illustrate a government power gone awry: "Not only has this wrong-headed effort harmed the detainees, but it has undermined critical legal protections."

Anyone who shouldn't be there, the government said, will be weeded out through Pentagon panels sifting through classified secrets that the courts need not see.

The Supreme Court disagreed. And, it fell to the federal judges in the white concrete U.S. District Court along Constitution Avenue.

### PRISONERS SPEAK

Judges there have done everything from issuing restraining orders banning the Pentagon from moving detainees to third countries to ordering the military to stop eavesdropping on lawyer-client conversations. Since then, prisoners have started to speak of soldiers and interrogators using sexual and religious humiliation in the prison that the administration likes to boast is humane overall.

One judge, George W. Bush appointee Richard Leon, tossed out seven Algerians' habeas petitions and said the federal courts should not intrude. Another, Clinton appointee Joyce Hens Greens, said Guantánamo captives can sue, and highlighted torture allegations.

Now a federal appeals court will play Solomon, on a

question destined to return to the Supreme Court.

Meanwhile, the captives and their American lawyers keep turning to the court. Just this month, another judge filed an injunction against the Bush administration that banned it from sending prisoners to nations where the State Department has alleged human rights violations.

And more and more prisoners have been filing petitions, through U.S. lawyers who have learned about prisoners the Pentagon has tried to keep anonymous. The cases use a template that has evolved over the past year.

### BASIC ARGUMENT

Different prisoners' legal arguments can vary, but they mostly follow a basic American civil liberties line: Guantánamo prisoners should be set free, they say, because they have not been charged and are being held in indefinite detention, a Fifth Amendment violation.

Their detentions violate U.S. military law, they assert, because the Bush administration has taken a pick-and-choose approach to Geneva Convention protections and violates the Army's own regulations on war-time captives.

And, increasingly, the lawyers argue that reported torture has rendered meaningless any confession their clients have made through repeated interrogation, which violates Congress' own Alien Tort statute.

Then they include the kind of personal details that, if a judge ever actually hears a case, makes a captive come alive.

### 'FASCINATING'

"From an intellectual perspective they are fascinating cases and the issues are very,

## Detainee v. President Bush

Since the Supreme Court ruled in June that prisoners at Guantánamo Bay, Cuba, may challenge their captivity, the lawsuits have been piling up at the U.S. District Court on Constitution Avenue in Washington D.C. Omar Deghayes, for example, filed suit in December.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

OMAR DEGHAYES, Petitioner, Camp Delta

James Deghayes, as Next Friend of Omar Deghayes

JAMES ABDULLAH KIYEMBA, Detainee, Camp Delta

Theresa Kinnaddu, as Next Friend of Jamal Khorram

SHAKER ABDURRAHMAN AAMER, Detainee, Camp Delta

Saeed Ahmed Siddiqui, as Next Friend of Shaker Abdurrahman Aamer

Petitioners.

vs.

GEORGE WALKER BUSH, President of the United States, The White House, 1600 Pennsylvania Ave., N.W., Washington, D.C. 20500

DONALD RUMSFELD, Secretary, United States Department of Defense, 1000 Defense Pentagon, Washington, D.C. 20301-1000

ARMY BRIG. GEN. JAY HOOD, Commander, Joint Task Force - GTMO, Guantánamo Bay Naval Station, Guantánamo Bay, Cuba

ARMY COL. NELSON J. CANNON, Commander, Camp Delta, Guantánamo Bay Naval Station, Guantánamo Bay, Cuba

FILED DEC 2 2 2004

CASE NUMBER 1:04cv02215

JUDGE: Rosemary H. Collyer

DOCK TYPE: Habeas Corpus/2255

DATE STAMP: 12/22/2004

Libyan-born Omar Deghayes, a longtime British resident, is a captive at Guantánamo Bay.

Clive Stafford Smith, lawyer for Omar Deghayes

President George W. Bush

Defen Secre Donal Rums

Army Brig. Gen. Jay Hood

Army Col. Nelson Cannon former Camp Delta com

### The lawsuits so far by nationality:

More than 130 of the 540 or so prisoners are suing the Bush administration from their cells at Guantánamo Bay. Little is known about some, and lots about others. Includes nine prisoners since reinstated

Algeria	9	Libya	1	Uganda	1
Australia	2	Mauritania	1	Yemen	1
Bahrain	6	Pakistan	1	Unknown	1
Britain	4	Palestinian	1		
Canada	1	Qatar	1		
China	2	Saudi Arabia	1		
Egypt	2	Sudan	1		
France	4	Syria	4		
Iraq	1	Tajikistan	1		
Jordan	5	Tunisia	1		
Kuwait	13	Turkey	1		

Source: U.S. District Court filings

very important to our system of justice," said Newark, N.J., lawyer Mark Berman, whose firm is defending two Qatari brothers.

"There are very, very interesting issues and there has been a tremendous effort to make sure that all these people have counsel," added Berman, whose firm's senior partner, retired federal judge John Gibson, argued the Guantánamo prisoners' case before the Supreme Court.

All this is happening as the Pentagon has been slowly thinning the prison population, freeing a few and sometimes sending them to custody in foreign countries — beyond U.S. law.

### FEAR OF TORTURE

Lawyers for Egyptian She-

rif Mashad, a resident of Italy who was captured along the Afghan-Pakistan border, for example, argue that he could be tortured if he is sent to Cairo, on the theory that after three years in Guantánamo he must be a terrorist.

Deghayes likewise is seeking his return to London, where his mother lives as a British citizen, not the country his family fled for Switzerland 25 years ago, and ultimately political asylum in England.

### MISTAKEN IDENTITY

British-born U.S. attorney Clive Stafford Smith argues that Deghayes is a victim of mistaken identity, and that military intelligence has mistakenly branded him a one-time Chechen fighter named

"Abu Walid."

### THE PROOF

"Were he to reach Clive Stafford Smith said, he would provide proof that the left right eye has been damaged since a boyhood accident. European agencies circled a mug shot purporting to be Deghayes that portrayed a goggle-eyed black-hair Chechen fighter.

"These petitions demonstrate that the Bush administration wasted a huge amount of time, money and effort in wild goose chase," Ra said. "Defense Secretary Donald Rumsfeld's worst was not nothing or sort. There is no evidence that has justified their detention for a week, much less 10 years."

LYNN OCCUZZO / HERALD ST