

## **MUHAMMED KHAN TUMANI AND ABDUL NASSER KHAN TUMANI\***

### **SYRIAN GUANTANAMO DETAINEES IN NEED OF PROTECTION**

#### **Summary**

Abdul Nasser and Muhammed Khan Tumani, citizens of Syria, are a father and son who have been detained at Guantanamo without charge or judicial review of their detention for nearly seven years. Muhammed was just a teenager when he was arrested and has spent much of his youth at Guantanamo, where he has been deprived of virtually all contact or communication with his aging father. Both men fear persecution if returned to Syria and require the protection of a third country in order to leave Guantanamo safely.

#### **Personal History**

Muhammed Khan Tumani was just a high school student with one year left to graduate when he left Syria with nine members of his family, including his mother, his 67 year-old grandmother, and his infant nephew of eight months. His father, Abdul Nasser Khan Tumani, had set out from Syria in advance of his family in hopes of finding a stable country with good economic opportunities where they could all start a new life. Immigration and economic barriers eliminated many countries as options, but the elder Khan Tumani was able to find employment in Kabul, selling prepared food in the markets, and hoped eventually to save enough money to resettle his family in Saudi Arabia. While Muhammed had wanted to stay in Syria and finish his studies, he moved because his entire family was relocating and out of loyalty to his father. He looked forward to moving to Saudi Arabia as soon as possible so that he could resume his schooling.

Muhammed and his entire family traveled legally and with proper documents. Once in Afghanistan, the family was forced to flee for their safety when they learned that there might be a war with the United States. Muhammed and his father traveled to Pakistan, where villagers seized and handed them over to local authorities. They were held and tortured first in a Pakistani prison and then at the American-run prison in Kandahar, Afghanistan, before being transferred to Guantanamo. Muhammed was only 17 when he came into U.S. custody.

In Pakistan, Kandahar and at Guantanamo, Muhammed and Abdul Nasser have been subjected to torture and detained in inhumane conditions. In connection with his interrogations, Muhammed, for example, has suffered a broken nose and a fractured hand – injuries that have gone untreated – shocked with electric cables, threatened with a knife, and threatened with rendition to Egypt or Jordan. In other instances, soldiers told Muhammed and Abdul Nasser that they would kill, or had killed their family members.

For years, the elder and younger Khan Tumanis have been detained in separate camps and cells, and have been forbidden from communicating with each other.

#### **Allegations**

In nearly seven years of detaining Muhammed and Abdul Nasser at Guantanamo, the U.S. government has never charged either man with a crime. It has held them solely on the basis of unsupported allegations that they are “enemy combatants” – allegations that to this day have never been reviewed by a court of law. While Muhammed and Abdul Nasser each filed a petition for a writ of *habeas corpus* in a United States federal court in 2005, the merits of their case has

yet to be heard in court. The only review they have ever had of their detention was by an ad-hoc Combatant Status Review Tribunal (CSRT) created by the government in 2004, where they had no right to a lawyer, no right to see or rebut the classified evidence against them, no ability to present witnesses or their own evidence, and where evidence obtained through torture could be used as a basis for continued detention. Not surprisingly, their CSRTs deemed them “enemy combatants,” as the tribunals found almost all detainees.

Muhammed and Abdul Nasser flatly deny that they have any connection to Al Qaeda or the Taliban, or that they were in Afghanistan for any reason other than relating to their family. The allegations against them are entirely unsupported by reliable evidence, as demonstrated in Muhammed’s CSRT, for example, where the unclassified transcript indicates that his “Personal Representative” himself questioned the government’s main “evidence” for an allegation that Muhammed attended a training camp in Afghanistan. While the source for the allegation allegedly placed Muhammed at the camp in April 2001, the Personal Representative points out that Muhammed did not arrive in Afghanistan until July 2001.

Even taken at face value, the allegations against Muhammed and Abdul Nasser do not justify their indefinite detention. The U.S. government has never alleged that either man participated in any actual fighting or hostilities against anyone, or was ever a member of an alleged terrorist organization. Nor has either man ever had any involvement with any act of terrorism or violence whatsoever.

### **Fear of Torture or Persecution in Syria**

Muhammed and Abdul Nasser fear torture or persecution if they are returned to Syria. In 2004, Muhammed told his CSRT that he and his father were in need of political asylum. Muhammed fears that he and his father would be killed if they were returned to Syria because of the false allegations that the U.S. government has made against them, and has expressed a need for safe protection in another country for himself and his father.

The objective evidence on the treatment of security and other detainees in Syria demonstrates that Muhammed and Abdul Nasser’s fears are credible and reasonable. In its country report on human rights in Syria from March 2007, the U.S. State Department itself reported that Syrian security forces have targeted individuals with links to various human rights and pro-democracy student groups, as well as alleged Islamist extremists. Amnesty International reports that prisoners in Syria suffer methods of torture and ill-treatment including electrical shocks, burning genitalia, pulling out fingernails, whipping, fracturing the spine, and asphyxiation. Torture is used routinely to extract information and confessions from prisoners.

### **Urgent Need for Humanitarian Protection**

Muhammed and Abdul Nasser have been detained without charge for nearly seven years. Their torture and isolation, especially from each other, has taken a heavy toll on their physical and mental well-being, particularly given Muhammed’s youth and Abdul Nasser’s increasing age and frailty. Muhammed, who was kidnapped and detained as a minor, is still waiting for the chance to begin building his life.

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