

US judge rules secret evidence unconstitutional, orders release of Palestinian immigrant

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US Federal District Judge William H. Walls ordered the immediate release of Hany Kiareldeen, a 31-year-old Palestinian immigrant who has been held for 18 months in a New Jersey county jail while Immigration and Naturalization Service (INS) officials sought to deport him. The judge ruled that the use of secret evidence of alleged terrorist connections to detain Kiareldeen violated the due process provisions of the US Constitution.

Lawyers from the INS immediately obtained a stay of the order for Kiareldeen's release from the US Court of Appeals for the Third Circuit. The appeals court was expected to rule on the INS motion on Thursday. In the meantime Kiareldeen remained in custody at the Hudson County Correctional Center.

Judge Walls' decision described the case against the Palestinian immigrant—involving the use of undisclosed secret evidence against him—as "government processes initiated and prosecuted in darkness." He said the case raised "serious issues about the integrity of the adversarial process." The judge also ordered the INS to pay Mr. Kiareldeen's attorneys' fees.

Hany Kiareldeen came to the US nine years ago on a student visa. He was applying for a green card when he was taken into custody by immigration authorities in March 1998 for having an expired student visa. He was then told that the government had secret evidence against him, on the basis of which he was accused of links to terrorist groups. He has been accused of meeting with Nidal Ayyad one week before the attack on the World Trade Center. Nidal Ayyad was subsequently convicted in connection with the World Trade Center bombing.

Kiareldeen maintains that the allegations against him

are baseless. His lawyers have presented documentation and more than a dozen witnesses to counter the charges of terrorism, but the immigration lawyers repeatedly cited the "secret evidence" supposedly in the possession of the FBI.

Judge Walls' ruling could have bearing on the cases of some 20 other immigrants, all of Arab descent, who are being held by the INS on the basis of classified information from undisclosed sources. Claiming that these persons have links to terrorist organizations and are threats to national security, the immigration officials will only release vague summaries of the secret evidence being used against them.

The 1996 Illegal Immigration Reform and Immigration Responsibility Act authorized the use of such secret evidence as the basis for deporting lawful permanent residents. The INS has used such evidence in dozens of cases to deny non-citizens bond or relief from deportation. In one Florida case, Mazen Al-Najjar, an 18-year US resident, has been held in detention for two years. While Al-Najjar and his attorneys have never been informed of the basis of his detention, his request to be released on bond was denied, also on the basis of secret evidence.

See Also:

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