

# Another step towards presidential dictatorship: Bush orders US citizen held indefinitely by military

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A New York-born man of Puerto Rican descent has been jailed indefinitely by the Bush administration in a military brig in South Carolina, in an unprecedented assertion of executive power. The case of Jose Padilla—or as he now calls himself, Abdullah al Muhajir—has the most ominous implications for democratic rights in the United States.

The federal government has seized a US citizen and locked him up for an unlimited period of time on the say-so of the president, without the sanction of any court and in defiance of such elementary legal principles as the presumption of innocence and the right of *habeas corpus*.

Attorney General John Ashcroft announced the arrest of Padilla/Muhajir June 10 at an extraordinary press conference held in Moscow, where he was engaged in a long-planned visit to meet with Russian police and security officials. Calling the arrest “a significant step forward in the war on terrorism,” Ashcroft declared, “We have captured a known terrorist who was exploring a plan to build and explode a radiological dispersion device, or ‘dirty bomb,’ in the United States.”

This statement combined gross distortions with outright lies. Muhajir was actually “captured” nearly five weeks ago, on May 8, when he arrived at O’Hare Airport in Chicago, on his way back from an extended stay in Europe, the Middle East and South Asia.

While Muhajir apparently converted to a fundamentalist form of Islam several years ago, when he married an Egyptian woman, the government has not yet presented any evidence that he was a supporter of Al Qaeda and Osama bin Laden, let alone engaged in any terrorist activity. In fact, the Bush administration arranged his transfer from the Metropolitan Correctional Facility in New York City to the US Navy brig in South Carolina so that it would not be obliged to produce such evidence. All that has been made public are the unsupported assertions of Ashcroft and other government officials, parroted obediently by the American media.

It may be that Muhajir became a political supporter of bin Laden and Islamic fundamentalist terrorism, but the claims that the Bush administration has preempted a major terrorist attack on the United States are not only unproven, but thoroughly dubious.

After Ashcroft’s initial and highly sensationalized presentation of the case, other administration officials were compelled to qualify his remarks. While the attorney general claimed the US government had “disrupted an unfolding terrorist plot,” Deputy Defense Secretary Paul Wolfowitz told a news conference, “There was not an actual plan. We stopped this man in the initial planning stages.” Government officials subsequently acknowledged that no materials for building a “dirty bomb” had been assembled, and no actual target had been selected.

In a heavy-handed effort to stampede public opinion, Ashcroft declared that Muhajir was a key operative in an Al Qaeda plan to detonate a radiological weapon—a conventional explosive device with a wrapper of radioactive material—which could cause “mass death and injury.” This statement became the basis for sensationalized media coverage, although experts in the field told the Senate Foreign Relations Committee that such a device could produce serious long-term contamination, but would actually cause relatively few casualties.

Ashcroft said that Muhajir was in Pakistan “researching radiological dispersion devices,” although how he could accomplish that with only a grade-school education and little knowledge of the local languages is unclear, to say the least. Previous US warnings about Al Qaeda access to nuclear technology have focused on former Soviet scientists and weapons technicians, not ex-members of city street gangs, as the likely conduits.

Even more inexplicable is the decision to arrest Muhajir as soon as he arrived in the United States. According Ashcroft and his aides, at the time they learned of Muhajir/Padilla’s role as an Al Qaeda operative, he had been jailed in Pakistan

for violating immigration laws. The Bush administration arranged for his release. US intelligence agencies then monitored his travel from Pakistan, through Zurich, Switzerland and Egypt to the United States. FBI agents were on board the plane during the last leg of the journey and arrested him as he was going through Customs at O'Hare.

Ashcroft was not asked an obvious question. Why, if Muhajir could be tracked from continent to continent, was he arrested as soon as he set foot on US soil? If he was such a key figure in a plot to kill thousands of Americans, why didn't the authorities continue to follow him, in order to find his collaborators and co-conspirators inside the country?

Rather than a terrorist mastermind, Muhajir is far more likely to be a low-level sympathizer of the Islamic fundamentalists—if even that—whose arrest has been seized on to boost Bush's political standing and refurbish the image of the intelligence agencies.

The announcement is suspiciously convenient in its timing, coming as the Bush administration is staggering under the impact of revelations that the CIA and FBI ignored or suppressed warnings of the September 11 terrorist attacks. Ashcroft was at pains to point to the cooperation of the two US intelligence agencies in his statement in Moscow.

Legal considerations were a major factor in Muhajir's transfer to military custody. He has not been charged with any crime. The government justified his arrest and incarceration by calling him a material witness in the federal investigation into September 11—the legal ploy that has been used to detain hundreds of Muslim immigrants over the past nine months.

A federal district judge in Manhattan had scheduled a secret hearing for June 11 and seemed prepared to order the government to charge Muhajir or release him. The alternative, devised by the Justice Department in consultation with the Pentagon, was to put him out of reach, at least temporarily, of the federal court system.

This process was conducted in a secret and politically chilling fashion. President Bush issued an executive order, in his capacity as commander in chief, declaring Muhajir an "enemy combatant who poses a serious and continued threat to the American people and our national security." The prisoner was taken from his New York prison cell, put on a government plane and flown to Charleston, South Carolina to a US Navy facility. Muhajir's own lawyer, Donna Newman of New York City, was not informed of his transfer and has been denied access to him.

Justice Department officials cited two World War II-era Supreme Court decisions as the legal basis for the presidential order to place Muhajir in military custody. The two cases involved US citizens of German and Italian descent who served as saboteurs or soldiers for the Axis

powers. However, these cases occurred in the context of a formal declaration of war against Germany and Japan, passed by Congress. No such constitutionally mandated declaration has been passed to authorize the present "war on terrorism." In both cases, moreover, the prisoners were placed on trial—one before a military tribunal, the other before a court martial. In the case of Muhajir, however, there is to be no adversary proceeding of any kind, but rather indefinite detention until the end of the "war on terror," which Bush administration spokesmen have said may go on for decades.

The open-ended and unilateral character of Muhajir's detention has sparked protests from civil liberties organizations, which have pointed out that the government power asserted here could be used against any American citizen.

Even the *Washington Post*, which has backed virtually all of the repressive measures of the Bush administration since September 11, wrote an opposing editorial, warning, "the government's actions in this latest case cut against basic elements of life under the rule of law." The *Post* continued: "If its positions are correct, nothing would prevent the president—even in the absence of a formal declaration of war—from designating any American as an enemy combatant. Without proving the correctness of the charge before a court, the military could then detain that person *forever*. And having done so, it could prevent that detainee from hiring a lawyer to argue that the government, in fact, has it all wrong. If that's the case, nobody's constitutional rights are safe."

But the *Washington Post*, like the rest of corporate-controlled media, fails to point out the blatant contradiction between the dictatorial measures of the Bush administration and its claim to be fighting a war in defense of "freedom." In reality, the unprecedented assault on democratic rights being carried out by the Bush administration is the domestic face of the eruption of US militarism internationally.



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