

Military's "espionage" case against Guantanamo chaplain collapses

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The US military's attempt to charge Captain James Yee, a Muslim army chaplain stationed at Guantánamo Bay, Cuba, with espionage in connection with the illegally held detainees housed there has collapsed ignominiously.

Having scapegoated Yee, incarcerated him in harsh conditions for more than two months, and besmirched his reputation, the Army is trying to cover itself by charging the chaplain with two counts of mishandling classified documents, one of which is reportedly a term paper on Syria. His lawyers have still not been given access to the papers. He is also accused of adultery, failure to obey an order and having pornography on his government computer!

A preliminary hearing for Yee stalled after two days on December 9, when prosecutors asked for more time to examine the documents found in his luggage after he left the base. The hearing in Fort Benning, Georgia, was postponed until January 19.

Yee, 35, was once billed by Pentagon officials as part of a major spy plot. He was arrested upon arrival at the naval air station in Jacksonville, Florida, from Cuba on September 10. Custom officials believed that materials in his backpack were suspicious, possibly containing classified information.

"I am wondering how they can with a straight face persist in prosecuting him when they don't know themselves what's classified and what isn't," Yee's civilian attorney, Eugene Fidell, told *Newsday*.

Yee, who was assigned to minister to the more than 600 prisoners from the Afghan war, was placed in solitary confinement after his arrest. Prosecutors initially told his military defense lawyer, Major Scott Sikes, that they might seek the death penalty.

Yee now faces an Article 32 proceeding, which is the military's version of a pretrial hearing to determine whether an individual will face court martial.

After having spent 76 days at the Navy brig at Charleston, South Carolina, Yee, who is married and has two children, was released one day after Fidell, a prominent Washington-based attorney, wrote to George W. Bush. The letter disclosed that Yee had been held from September 10 to October 24 "in a small cell for about 23 hours a day, with only one hour of solitary exercise." He was required to wear hand and leg irons when leaving his cell.

"He was forced to endure several other harsh and illegal conditions of confinement," explained Fidell's letter, that were far more onerous than the charges mandated. Yee, a Chinese-American who graduated from West Point and later converted to Islam, was the second Muslim chaplain assigned to the Guantánamo prison camp since its establishment in January 2002.

After the hearing delay, Major Sikes said: "This is the most incredible military justice proceeding that this military defense counsel has ever been involved in." Sikes's statements mark the first time a uniformed officer has publicly denounced the government's tactics in the case. The members of Yee's defense team have asked prosecutors to allow them to see the "suspicious papers" alluded to by a Department of Homeland Security agent on the first day of the hearing.

In an interview with the WSWS, attorney Fidell commented: "After the government got over its hysteria—the extraordinary claims of espionage and transporting classified information—the hearing was postponed because for the 76 days that Captain Yee was being detained, the government failed to perform the necessary security review to demonstrate whether the documents were classified or not.

"At the beginning, it was intimated that the case might go capital [capital punishment]. To this day, I have never seen any classified information. Any time an individual confronts the state, anything can happen.

“Those responsible for Guantánamo prisoners were handed a terrible, terrible job. They got spun out on secrecy and reacted in a panicked fashion.

“The legal climate is on a hair trigger and this has generally been increasing since September 11. The maximum permissible sentence for the charges against Mr. Yee is 14 years. But for charges like these people do not get sent to jail and he has already spent a good deal of jail time.

“It’s ironic, but in some ways, the government has treated him like a Guantánamo detainee.”

Mr. Fidell thought the charges brought against Yee were added vindictively, suggesting “a kind of desperation on the part of the US government.”

Yee is one of four people charged to date with breaches at Guantánamo. The first person arrested was Senior Airman Ahmad I. Al-Halabi, an Air Force translator accused of collecting secrets about the base and messages from prisoners with plans to transmit them to an unspecified enemy in his native Syria. He has pleaded innocent to 32 charges, including espionage and aiding the enemy, charges that carry a possible death penalty. Detained since July 23, al-Halabi’s arrest was announced shortly after the September arrest of Yee.

A civilian interpreter, Ahmad F. Mehalba, was arrested September 29 as he arrived in Boston from his native Egypt with ostensibly classified documents. He was charged on November 12 with gathering defense information and lying to federal investigators.

Army Colonel Jack Farr, an intelligence officer, became the fourth person charged. On November 29, he was accused of “wrongfully transporting classified material without the proper security container on or around Oct. 11,” and lying to investigators, according to a statement from the US Southern Command.

Captain Yee’s defense fund has been organized by Justice for New Americans, first formed during the case of Wen Ho Lee, the Taiwan-born Los Alamos National Laboratory scientist who was arrested by the FBI in 1999 and found not guilty after 10 months in solitary confinement and the ruination of his career. The FBI had initially investigated Lee as a potential Chinese spy, but never had any evidence to back up the charge.

“The media, particularly the *New York Times*, found Wen Ho Lee guilty before he was indicted,” Cecilia Chang, head of Justice for New Americans, told the WSW. “I see the same thing happening with James Yee.”

She said that Yee’s situation may be more serious than

was Dr. Lee’s because after the September 11 terrorist attacks and the establishment of the Department of Homeland Security, attacks on civil liberties have dramatically increased. Chang claims that the government is retaliating against Yee for speaking up about human rights violations at Guantánamo—“the really intolerable conditions detainees are subjected to.”

Chang continued: “James’s family has been in America for three generations—they don’t even speak Chinese anymore. Out of five siblings, three went into the military. That’s a loyal American family! It seems like every time we turn around the government is targeting another ethnic group. During the McCarthy period, Chinese laundrymen from New York and San Francisco were victimized. During World War II, the Japanese were put into concentration camps.

“Showing sympathy to the detainees is just being a humanist and that is not a crime. Being a chaplain means that you listen to people’s suffering and that is not a crime. It is these kinds of charges and accusations that make people laugh at the military.

She went on to say that one of the “classified documents” found in Yee’s possession was in actuality a graduate school term paper on Syria. “James is an excellent example of just how far the situation with Homeland Security has gone. It can destroy careers, families and marriages.

“James is a loyal American, not an enemy combatant, but they put him in a Navy brig for 76 days. In the early part of September and October, the media wrapped James up with other suspected terrorists. I believe there is some kind of conspiracy between the right-wing government and the media in criminalizing immigrant-looking people. But what’s happening is that more Americans are coming together and people are waking up.

“Homeland Security proves that people can’t take democracy for granted. Immigrant people can’t just sit back and take democracy for granted. We have to fight. When we are crucified and ostracized, we have to speak out because we are speaking out for all people.

“One of the things I thought was interesting was that the first book James bought when he got out of prison was the Jessica Lynch book.”



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