

Padilla suffered brain damage during captivity, experts say

Tom Carter
24 February 2007

On February 22, two expert defense witnesses testified that José Padilla suffered brain injuries during the course of his detention in a US naval brig and that he is mentally unable to stand trial.

Padilla, a US citizen, was arrested at O'Hare Airport in Chicago in May 2002 and declared a "material witness" in the investigation into the September 11 terrorist attacks. In June 2002 he was designated an "enemy combatant" by the Bush administration, which claimed he was an Al Qaeda operative and had been plotting to explode a radioactive "dirty bomb" in a US city.

He was subsequently held, without charges and in defiance of fundamental democratic rights, in a South Carolina naval brig. According to a brief filed by his lawyers, he was deliberately and systematically tortured for the three-and-a-half years duration of his incarceration. (See "Citing torture, lawyers for Jose Padilla argue case should be dismissed")

Patricia Zapf, an associate professor at the City University of New York and clinical forensic psychologist, testified that Padilla exhibited a "strong indication of cognitive impairment." She estimated that there was a 98 percent chance that he had suffered brain injuries during his confinement.

Dr. Zapf described Padilla as "immobilized by anxiety" whenever he was questioned about his incarceration and treatment. "He said he can't relive it, he can't go through it again, and he can't name names," she said.

Angela Hegarty, a forensic neuropsychiatrist and assistant professor of clinical psychology at Columbia University, argued that Padilla did not fully understand the legal proceedings now under way, and that he is convinced that they represent yet another stage of his interrogation. For example, he has been disinclined to

speak with his attorneys about his experiences in the brig because he thinks they are government agents.

"He hits a stone wall and his logic shuts down," said Dr. Hegarty. "His overwhelming anxiety interferes with his reasoning." He is also unable to place events in chronological order, she said.

Both witnesses reiterated the concerns of Padilla's legal counsel that he is so terrified of being returned to the brig, where he is convinced he will die, that he will do anything to avoid it, including lie in court about the conditions of his confinement. Hegarty referred to this behavior as a form of Stockholm syndrome, in which kidnap victims and prisoners in helpless situations are psychologically inclined to defend their captors.

"When you are helpless and dependent on an all-powerful group, it takes away your anxiety when you line up with them," she said.

Padilla fears that if he contradicts the government in court, he will be punished for it when the trial is over. He is currently being held in a Florida jailhouse.

The witnesses also confirmed that Padilla outwardly exhibits classic symptoms of post-traumatic stress disorder (PTSD), including hypervigilance, facial tics, and extreme paranoia.

According to a brief filed at the outset of the case, during his confinement Padilla was force-fed drugs such as LSD and PCP, forced into "stress positions," systematically deprived of sleep, subjected to extreme temperatures and noise, kept in total isolation in a tiny cell under 24-hour surveillance, manacled and hooded for long periods of time, and underwent routine harsh interrogation.

Padilla's attorneys, led by Anthony Natale, argue that the damage to Padilla's mental faculties is so severe that he is legally unable to stand trial or assist in his own defense. If the court finds that Padilla is unfit to

stand trial, as his lawyers argue, then the trial, scheduled to begin April 16, cannot go forward. The government would no doubt appeal such a decision, but in the meantime Padilla would likely be institutionalized and given psychiatric treatment.

Lawyers for the government, led by John C. Shipley, have attempted to stop this from happening by flatly denying that Padilla suffers from PTSD, citing a standardized test he was given while in custody. The government is also expected to call its own expert psychiatric witness—Rodolfo Buigas, a psychological evaluator for the Bureau of Prisons—who will say that Padilla is fit for trial.

The prosecution has focused as well on an alleged inconsistency in Padilla's defense: the defense lawyers argue on the one hand that Padilla is mentally unfit for trial, and simultaneously argue on the other that he is to be believed when he says he was tortured by the US government.

The ongoing legal proceedings themselves are an inconvenience for the Bush administration, which originally arrested Padilla as a test case in the attack on fundamental democratic rights and assertion of police-state executive powers associated with the so-called "war on terror."

Padilla was held incommunicado without trial or charges for almost four years before a November 2005 Supreme Court case threatened to call into question the entire practice of extra-legal detention. The Bush administration reacted to this development by hastily cobbling together criminal charges against Padilla and indicting him in a Florida criminal court. While this saved for the moment the denial of elementary democratic and legal rights to so-called "enemy combatants," it forced the government into a courtroom where it is required to provide at least some evidence to substantiate the charges against Padilla.

The new criminal charges against Padilla, it should be noted, bear absolutely no relationship to the allegations of a "dirty bomb plot"—made on national television by then attorney general John Ashcroft as well as Bush himself—that constituted the initial justification for his incarceration. Padilla is now charged with conspiring to murder, kidnap and maim people in a foreign country, as well as two counts of conspiracy and aiding terrorists abroad.

Judge Marcia Cooke, upon examining the new

government allegations, acknowledged that the government's case was "light on facts." Padilla pled not guilty.

On February 26, the military personnel who oversaw Padilla's incarceration are scheduled to answer questions in court, although the prosecution aims to block this testimony on the grounds that it will compromise "national security." Judge Cooke overruled a number of government objections to the testimony of Zapf and Hegarty, however, and may likewise allow Padilla's jailers to testify.



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