

Federal judge rules terrorism trial against Jose Padilla to proceed

Kate Randall
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A federal judge has refused to dismiss terrorism-related charges against former “enemy combatant” Jose Padilla, rejecting defense arguments that the US government had violated his constitutionally protected right to a speedy trial.

In a ruling Friday in Miami, US District Judge Marcia Cooke agreed with prosecution claims that Padilla’s three and a half years of incarceration without charges in a Navy brig did not count, because at that point he had yet to be charged with a crime.

“I agree that the law in this case is that a criminal trial begins with the filing of the criminal process,” Cooke stated. “Mr. Padilla has been promptly brought to court in that matter.”

In reality, Jose Padilla’s case has been a travesty of justice, providing a telling exposure of the police-state methods employed by the Bush administration in the name of the “war on terror.” Orlando do Campo, one of Padilla’s four court-appointed lawyers, commented last week on his client’s case, “No one has ever been treated the way Mr. Padilla has been treated.”

Padilla, a US citizen, was seized by federal agents at Chicago’s O’Hare International Airport in May 2002. In June 2002, then Attorney General John Ashcroft claimed that the Bush administration had foiled a “dirty bomb plot” to explode a radioactive device in a major US city, and that Padilla was at the center of it.

The Bush administration subsequently designated him an “illegal enemy combatant,” and he was held for more than three years in a South Carolina naval brig without ever being charged with a crime. He was not allowed contact with either legal counsel or anyone else outside of his jailers and was never taken before a judge. He was denied the basic democratic right of habeas corpus—to have the accusations against him presented before a court of law.

According to papers filed by his attorneys, during his

imprisonment he was subject to prolonged solitary confinement and torture and was repeatedly interrogated about his alleged ties to terrorism. He was held in a 7-by-9-foot cell with no outside view, was deprived of sleep, a clock and reading materials.

He was regularly forced into “stress positions,” was subjected to extreme temperatures and noise, and was hooded and restrained for long periods of time. He was also force-fed “truth serum” drugs such as LSD and PCP. Padilla’s attorneys allege he was also threatened with imminent execution. (See “Citing torture, lawyers for Jose Padilla argue case should be dismissed”)

In November 2005, the government abruptly transferred Padilla from military to civilian custody. The indictment then announced by Attorney General Alberto Gonzales charged Padilla, 36, along with Adham Amin Hassoun, 44, and Kifah Wael Jayyousi, 45, of being part of a “North American support cell” that worked to support Islamist jihad campaigns outside the US.

The move followed a series of court rulings rejecting the Bush administration’s contention that it could hold Padilla indefinitely without charges and without access to legal counsel. Rather than argue the administration’s claim to be able to declare anyone—including US citizens—“enemy combatants” and abrogate all of their legal rights, the administration decided to criminally charge Padilla.

The new government charges, however, bore no relation to the original allegations that Padilla was involved in a “dirty bomb plot.” There were no allegations whatsoever that Padilla was involved in plotting terrorist attacks inside the US. Rather, federal prosecutors allege that Padilla was recruited to a group that was supporting Islamist organizations in countries like Bosnia, Kosovo and Chechnya and had filled out a form in 2000 to attend an Al Qaeda training camp in Afghanistan.

Despite dropping the “dirty bomb plot” charges, federal

prosecutors still intend to utilize Padilla's trial to make sensationalist charges of terrorism. Also on Friday, Judge Cooke rejected a defense motion to prevent prosecutors from naming Osama bin Laden and Al Qaeda during the trial, or using words such as "violent jihad" and "terrorist."

Kenneth Swartz, attorney for defendant Hassoun, argued that such "hot wire" words would unfairly connote guilt in jurors' minds. Cooke countered that the defense would have ample opportunity to challenge their use and meaning.

In documents filed last Thursday, federal prosecutors are also requesting that a CIA agent be allowed to testify in disguise at Padilla's trial. The agent would wear "a wig, eyeglasses or minor facial hair." Courtroom artists would be barred from sketching pictures of the agent, and he would enter and leave the courthouse through a private entrance.

The purpose of this disguise would be to protect the agent's identity and block any information leading to the exposure of secret CIA operations in Afghanistan—from which the US has snatched up an unknown number of alleged "terror suspects" before transporting them to the Guantánamo Bay detention camp and other secret prisons. The agent would reportedly testify about how Padilla acquired an application form to join the "North American support cell."

Judge Cooke has consistently ruled in the prosecution's favor in pretrial motions. On February 28, she ruled that Jose Padilla is mentally fit for trial, dismissing evidence presented by his defense team that the torture he suffered in his detention as an "enemy combatant" was so severe that it rendered him mentally unfit to stand trial or assist in his own defense.

Cooke could rule next week on another defense motion, which asks for dismissal of the charges on the basis of "outrageous government conduct" committed against Padilla during his three-and-a-half-year incarceration. The trial is scheduled to begin April 16.



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