

Trial of “enemy combatant” Jose Padilla begins

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The trial of José Padilla, the American citizen imprisoned without charges for three and a half years in a US military brig, began yesterday, nearly five years after his arrest at Chicago’s O’Hare Airport in May of 2002.

The first phase of the trial, which is expected to last two weeks, will be the process of jury selection. Because of the high profile of the case, US District Judge Marcia Cooke has granted lawyers a full 20 minutes per juror to ask questions about their prejudices and their familiarity with the media reports that identified Padilla as an “Al-Qaeda operative” and “dirty bomber.”

Judge Cooke, a Bush appointee, has also increased the number of jury candidates lawyers can dismiss without giving a reason. She gave Padilla’s lawyers 36 of these privileges, called peremptory challenges, while giving the government 30. Under normal circumstances, the defense is allowed 10 and the prosecution 6.

Once the trial begins, despite objections by Padilla’s lawyers, Judge Cooke has granted a government request to allow a disguised CIA agent to appear in court to testify against Padilla. Cooke has also said she will allow the government to use loaded words, names, and phrases like “violent jihad,” September 11,” “Osama bin Laden,” and “terrorist” during the trial. The trial will likely take four months to complete.

The several weeks leading up to the beginning of the trial have been characterized by the efforts of Padilla’s team of defense lawyers to get the criminal charges against Padilla thrown out on the grounds that he was subjected to systematic torture while in military detention and was denied his constitutionally guaranteed due process rights, including his right to a speedy trial. Judge Cooke denied each of these

motions.

Given Padilla’s treatment at the hands of the US government and the circumstances of his case, the fact that he is on trial at all is a caricature of justice.

Padilla, now 36, was jailed in May 2002 as a material witness in the September 11 attacks. Following widely-publicized and sensational accusations by then-Attorney General John Ashcroft that Padilla had been involved in a plot to detonate a radioactive “dirty bomb” in a major US city that would cause “mass death and injury,” Padilla was declared an “enemy combatant” and whisked away to a Charleston, South Carolina maximum-security military prison.

Padilla’s arrest and subsequent incarceration at the military brig was a “test case” in the Bush administration’s assumption of powers traditionally associated with police states, justified in the name of the so-called “war on terror.” These powers include the right of the president to arbitrarily declare any individual an “enemy combatant,” regardless of where he was captured or his country of origin, and incarcerate him indefinitely.

In violation of his fundamental rights guaranteed under the US Constitution, Padilla was held in a military brig for almost four years without ever being charged with a crime. He was never taken before a judge, read his rights, or allowed to contact a lawyer.

Instead, according to a brief filed by his lawyers last October, Padilla was placed in solitary confinement, systematically tortured, forced to take “truth-serum” drugs, and shackled for long periods of time in “stress positions.” The temperature and lighting in his cell was manipulated at the whim of his captors, he was kept under 24-hour video surveillance, and he was subjected to routine interrogations during which he was threatened with transfer to the infamous Guantánamo

Bay prison camp and execution.

As a result of this horrific ordeal, Padilla now outwardly exhibits classic symptoms of post-traumatic stress disorder (PTSD), including hyper-vigilance, facial tics, and extreme paranoia—complicating his lawyers’ efforts to prepare a case on his behalf. Patricia Zapf, an associate professor at the City University of New York and clinical forensic psychologist who examined Padilla, estimated that there is a 98 percent chance that he suffered brain injuries during his captivity.

When a case challenging Padilla’s detention threatened to reach the US Supreme Court last year, the Bush administration decided to preempt a potentially unfavorable ruling by filing criminal charges against Padilla and transferring him to a Florida jailhouse.

References to the “dirty bomb” plot are nowhere to be found in the current charges against Padilla, which even Judge Cooke has acknowledged are “light on facts.”

Padilla, along with his co-defendants Adham Amin Hassoun and Kifah Wael Jayyousi, is instead accused of conspiring to “murder, kidnap and maim” innocents overseas, as well as two counts of conspiracy and aiding terrorists abroad. All three have pled not guilty.



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