

# US: Opening statements delivered in Jose Padilla trial

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Yesterday marked the opening of the trial of Jose Padilla in Miami, Florida, following a lengthy process of jury selection and pre-trial legal proceedings.

Padilla, a US citizen, was imprisoned and tortured for three-and-a-half years on a US military brig without charges and in violation of fundamental democratic and constitutional principles. He now faces criminal charges of conspiracy and terrorism in a Florida court.

In his opening statement cited in the Associated Press, US Attorney Brian Frazier employed the most loaded language, insisting that Padilla had been an “Al Qaeda terrorist trainee” and member of a “terrorism support cell, based right here in South Florida.”

“Padilla was serious, he was focused, he was secretive,” Frazier continued. “Padilla had cut himself off from most things in his life that did not concern his radical view of the Islamic religion.” Padilla and his co-defendants, Adham Amin Hassoun and Kifah Wael Jayyousi, “took concrete steps to support and promote this violence,” Frazier said.

The government’s case, which US District Judge Marcia Cooke has described as “very light on facts,” consists of hundreds of hours of surreptitiously recorded telephone conversations, records of funds donated to Middle Eastern charities, and an application form Padilla allegedly signed in July 2000 to attend an “Al Qaeda training camp” in Afghanistan.

To emphasize the often patently ridiculous character of the government’s charges, federal prosecutors allege that during the taped telephone conversations the defendants used “code words” to refer to planned terrorist activities: “soccer equipment” was code for “guns,” “tourism” was code for “armed struggle,” and so on.

Because of the government’s lack of evidence against Padilla, federal prosecutors are attempting to whip up

an atmosphere of hysteria in the courtroom. According to Jayyousi’s attorney, William Swor, Frazier used the term “Al Qaeda” 91 times during his opening statement. “There’s a lot of rhetoric, but there’s no evidence,” said attorney Jeanne Baker, representing Hassoun, according to the AP.

All three defendants have pled not guilty. According to the *New York Times*, defense lawyers called the so-called “Al Qaeda application form” a “questionable document,” and said that the handwriting did not resemble Padilla’s. They also said that the defendants’ charitable donations during the 1990s were motivated by a desire to defend fellow Muslims overseas, “who were under horrendous attack and who were resisting oppression.”

Despite the government’s incessant use of provocative language, no terrorist act has been attributed to Padilla, Hassoun, or Jayyousi. “As you will hear clearly and without a doubt,” attorney Anthony Natale pointed out to the jury, “there were no victims in this case, real or imagined.” In fact, the principal victim in the entire proceeding is Padilla himself.

“In this case,” said Natale, “you will see how, in the absence of hard evidence, a suspicion can be fueled by fear, nourished by prejudice and directed by politics into a criminal prosecution.”

Padilla and his co-defendants are accused of conspiring to “murder, kidnap and maim” innocents overseas, as well as two counts of conspiracy and aiding terrorists abroad.

## The case of Jose Padilla

Jose Padilla's arrest and incarceration was a major test case in the US government's assertion of domestic police-state powers as part of the so-called "war on terror." Among these claimed powers is the right of the president to arbitrarily declare any individual, including a US citizen such as Padilla, an "enemy combatant"—i.e., outside the protections of both US and international law. According to the legal theory advanced by the Bush administration, these "enemy combatants" can be arrested, imprisoned, tortured or even executed without the semblance of due process.

After years under clandestine FBI surveillance, Padilla was arrested in May 2002 as a "material witness" in the September 11 attacks. Months later, then-Attorney General John Ashcroft appeared on national news to announce that a major terrorist plot to detonate a radioactive "dirty bomb" in a major US city that would have caused "mass death and injury" had been foiled. By executive edict, Padilla was declared an "enemy combatant," stripped of all legal protections, and secreted away to a Charleston, South Carolina maximum-security military brig. He was not then formally charged with any crime.

According to a brief filed by his lawyers at the outset of the trial, Padilla was systematically tortured during the three-and-a-half years he spent at the brig, much of which he spent in solitary confinement in a tiny cell without any contact with the outside world. While under 24-hour surveillance, he was chained into "stress positions," force-fed "truth-serum" drugs, and repeatedly threatened with execution or relocation to the infamous Guantánamo Bay, Cuba prison camp, where he was told his treatment would be even worse.

During that time, Padilla was never taken before a judge, read his rights, given a trial, or permitted to contact a lawyer. When litigation challenging this treatment threatened to reach the US Supreme Court last year, the Bush administration decided to preempt a possible unfavorable ruling—which could call into question the entire phony legal category of the "enemy combatant"—by adding Padilla's name to a Florida conspiracy indictment involving Hassoun and Jayyousi.

It should be noted that the present charges against Padilla make no mention of the widely reported "dirty bomber" allegations or any of the other activities in which the government later alleged he had engaged. One can only assume that this is for lack of

evidence—i.e., because they were fiction.

Before the trial began, Padilla's lawyers argued forcefully that because the government had tortured Padilla and had denied him his most basic democratic and legal rights, such as the right to a speedy trial, it had forfeited the right to take him to court. The "government's gross misconduct," they argued, "shocks the conscience."

Judge Cooke, a Bush appointee, denied these motions to throw the charges out and bring the trial to a halt, setting an ominous precedent. Miami lawyer and legal analyst David Oskar Marcus, responding to the rulings, wrote, "What I'm wondering is—if torture isn't outrageous government conduct, then what is?"

On the other hand, Judge Cooke has decided to allow the federal prosecutors to use loaded terminology like "violent jihad," "Al Qaeda," "September 11," "Osama bin Laden," and "terrorist," and will also allow a CIA agent to appear in court in disguise to testify against Padilla.

According to the testimony of Patricia Zapf, an associate professor at the City University of New York and clinical forensic psychologist who examined Padilla, there is evidence that Padilla suffered permanent brain injuries during his captivity. In addition, the 36-year-old man exhibits symptoms of severe post-traumatic stress disorder (PTSD) as a result of his ordeal, including hypervigilance, disorientation, twitches and tics, and paranoia.



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