

# A travesty of justice: Jose Padilla found guilty

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A Miami, Florida jury found US prisoner Jose Padilla guilty Thursday on three terrorism-related counts. Padilla, a 36-year-old American citizen from Chicago, faces a possible life sentence.

The verdict is a travesty of justice and a testament to the growth of police state measures and the advanced state of decay of democratic rights in the United States.

Padilla was convicted along with two co-defendants—Adham Amin Hassoun and Kifah Wael Jayyousi—on two counts of material support for terrorism and one count of conspiracy to murder, kidnap and maim people overseas. The verdict was reached after only a day and a half of deliberations.

The government immediately declared victory, with Gordon Johndroe, a spokesman for the National Security Council, saying, “We commend the jury for its work in this trial and thank it for upholding a core American principle of impartial justice for all. Jose Padilla received a fair trial and a just verdict.”

Not only is the outcome of the trial the very opposite of a “just verdict” and example of “impartial justice,” it was not the result the government originally intended. The response of the Bush administration contains a substantial element of relief that it was able to secure a guilty verdict. If the administration had had its way, Padilla would never have been presented before a court of law at all.

Padilla was arrested in May 2002 in Chicago’s O’Hare International airport. The government first held Padilla as a “material witness” to the September 11 attacks, but in June of that year, then-Attorney General John Ashcroft held a press conference to announce that Padilla had plotted to explode a radioactive “dirty bomb” somewhere in the United States. He was declared an “enemy combatant” and shifted to a military brig in South Carolina, where he was held in an isolation cell without being charged and without access to a lawyer for three-and-a-half years.

It quickly became clear that the allegations against Padilla were not only sensationalized, but of highly dubious substance. While Padilla evidently had some ties to Islamic fundamentalists, Deputy Defense Secretary Paul Wolfowitz acknowledged at the time that there was “not an actual plan” to carry out a dirty bomb attack.

The portrayal of Padilla as a major terrorist threat who was, in the words of Ashcroft, prepared to inflict “mass death and injury,” served two essential purposes. It came at a convenient time for the Bush administration—amidst revelations that US intelligence agencies and Bush himself had ignored or suppressed warnings of the September 11 terrorist attacks—and enabled the administration to divert attention from the many unanswered questions about its failure to avert the attacks, while promoting the Padilla case as a victory in the “war on terror.”

More fundamentally, the Bush administration wanted to use Padilla to assert its claim that the president could order the indefinite military detention of a US citizen, detained on US soil. On the grounds that he was an “enemy combatant,” Padilla was denied communication with the outside world, stripped of his habeas corpus rights, and subjected to systematic physical and psychological torture.

Throughout his period in military confinement, Padilla suffered under the most horrendous conditions, according to a brief filed by his lawyers. He was imprisoned in severe isolation—the only prisoner in a high security prison bloc. He was caged in a nine-foot by seven-foot cell, with no access to sunlight. He was deprived of sleep, subjected at various times to intense light or complete darkness, tortured with extreme noise, and often shackled in contorted positions. He was given psychoactive drugs and “truth serums,” including LSD and PCP.

This treatment is in flagrant violation of the US Constitution and both American and international law, not to mention the most basic standards of human decency. However, for the Bush administration, Padilla was outside the law. Because he was denied access to the courts, he had no recourse to challenge his detention or seek remedy for his treatment.

In a 2003 brief, Vice Admiral Lowell Jacoby, director of the Defense Intelligence Agency, said that Padilla’s treatment was designed to create a sense of “dependency and trust” necessary for interrogation. In an interview with *Democracy Now!* yesterday, Dr. Angela Hegarty, who interviewed Padilla for the defense in order to evaluate his mental state, gave an indication of what this “dependency and trust” meant.

According to his family and friends, Hegarty said, “There was something wrong” with Padilla after the prolonged detention. “There was something ‘weird’...Something not right. He was a different man.”

Hegarty said that during her interview with him, Padilla was in a state of “absolute terror, terror alternating with numbness...He was like...a trauma victim who knew that they were going to be sent back to the person who hurt them and that he would...subsequently pay a price if he revealed what happened.”

Hegarty noted, “[T]his was the first time I ever met anybody who had been isolated for such an extraordinarily long period of time...Sensory deprivation studies, for example, tell us that without sleep, especially, people will develop psychotic symptoms, hallucinations, panic attacks, depression, suicidality within days.” But Padilla “had been in this situation, utterly dependent on his interrogators, who didn’t treat him all that nicely, for years.” Hegarty said that what happened to Padilla was “essentially the

destruction of a human being's mind.”

In November 2005, fearing an unfavorable decision by the Supreme Court on its indefinite military incarceration of Padilla and its denial of all due process rights, the government abruptly shifted its position. Padilla was transferred to a civilian prison in Florida and charged with other crimes—crimes that had absolutely nothing to do with the allegation of “dirty bomb” plots and subsequent claims that Padilla was plotting to blow up apartment buildings and hotels in American cities. As a result of this shift, the Supreme Court decided not to hear the case challenging Padilla’s detention, which had the effect of upholding an appellate court decision siding with the government.

The new charges alleged that Padilla, along with his two co-defendants, conspired to commit murder overseas and provide material support for terrorism. In particular, Padilla was said to have participated in an Al Qaeda training camp in Afghanistan in 1998, where he learned how to kill and commit terrorist acts. The main pieces of evidence provided by the government consisted of hundreds of hours of taped phone conversations, obtained through wiretaps, over a period of several years, and a document that was supposedly an application form signed by Padilla to participate in the Al Qaeda camp.

The criminal trial was stacked against Padilla from the beginning. US District Judge Marcia Cooke denied several motions by the defense to throw out the case because of the illegal and inhuman treatment to which the defendant was subjected. Padilla’s lawyers argued that by torturing him, the government had forfeited the right to prosecute him. They also argued that Padilla had become so mentally impaired as a result of his treatment that he was incompetent to stand trial.

The government decided very deliberately not to base its case on any statements made by Padilla during confinement. In this way they sought, successfully, to prevent any discussion of his treatment before the jury.

The actual physical evidence presented by the prosecution was extremely weak. Of the over 300,000 intercepted phone conversations that the government collected, only seven involved Padilla. None of these included any of the “code words” that the prosecution claimed referred to plans to carry out terrorist attacks.

The application presented by the government as evidence that Padilla traveled to Afghanistan is highly dubious. Padilla’s fingerprints were only on the outside pages, suggesting that he handled the document (perhaps in custody), but did not fill it out himself. Besides this form, the government provided no direct evidence that Padilla was ever in Afghanistan.

Relying on this weak evidence, the defense made the decision not to call any witnesses on Padilla’s behalf. The assumption was that the burden of proving the charges “beyond a reasonable doubt” lay with the prosecution, and that this burden had not been met.

The defense will likely appeal several of the decisions made by the judge in the course of the judicial process.

The jury’s decision to convict must be seen within the context of relentless fear-mongering and efforts to whip up hysteria in relation to Padilla’s case and the “war on terror” in general by the government, with the assistance of the media. Top government

officials declared Padilla guilty of plotting to commit mass murder before the entire country. The media was filled for weeks in 2002 with details of “dirty bombs” and the destruction they could inflict.

In the trial itself, the prosecution sought to connect Padilla to Osama bin Laden, although it presented no evidence to substantiate such a link, hoping thereby to create a connection in the jury’s minds to the attacks of September 11. During one of the most significant moments in the trial, Judge Cooke allowed the prosecution to show a videotape of a 1997 interview with bin Laden, even though it had no direct relevance to the case.

The Kafkaesque treatment that Padilla has suffered is a warning to all Americans. Such are the conditions that can be meted out to anyone—whether a US citizen or not. According to the legal theory developed by the administration, constitutional rights must be sacrificed in the name of “security” in the “war on terror.”

Padilla’s conviction occurs within the context of a vast expansion of executive powers to spy on the population, deny basic democratic rights, and employ torture on prisoners held throughout the world.

As with every aspect of the administration’s assault on democratic rights, the treatment of Jose Padilla has provoked no serious criticism from the Democratic Party. To the extent that there have been mild complaints within the media and political establishment, it has been from the standpoint that the government has “overreached” in the “war on terror” and thereby damaged US imperialist interests around the world.

The conviction of Padilla comes less than two weeks after the Democrats helped pass a bill gutting the Fourth Amendment of the US Constitution and expanding the ability of the president to spy on the American people. (See “Congress authorizes vast expansion of domestic spying”).

Jose Padilla’s personal tragedy is a manifestation of the deep and irreversible decay of American democracy.



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