Sentencing begins in Jose Padilla trial

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At a sentencing hearing Tuesday in a Florida federal district court, lawyers for Jose Padilla and two other men raised nearly 100 objections to a government pre-sentencing report, after asking for disclosure of government records pertaining to Padilla's case.

The disclosure request, submitted Monday, follows revelations that the CIA destroyed video recordings of prisoner interrogations involving waterboarding, a practice widely condemned as torture. Abu Zubaydah, one of those interrogated on the destroyed tapes, reportedly implicated Jose Padilla as an Al Qaeda member.

Padilla, an American citizen detained illegally on invented "dirty bomb" plot charges in 2002, was held in a military brig for three-and-a-half years under the most abusive conditions.

Prosecutors are pushing for life sentences for Padilla, Adham Amin Hassoun, and Kifah Wael Jayyousi, who were convicted in August on two counts of material support for terrorism and one count of conspiracy to murder, kidnap and maim people overseas. The government's allegations of a plot to detonate a radioactive "dirty bomb" in a major American city were dropped before any criminal charges were brought, and no specific acts of terrorism, violence, or plans for terrorism were tied to any of the convicted men.

District judge Marcia Cooke, a Bush appointee, rejected the defense team's disclosure request outright Monday, saying she had "reviewed relevant material and concluded that the government had handed over all the required evidence," according to a January 8 report in the *New York Times*.

Kenneth Swartz, representing Hassoun—allegedly Padilla's recruiter into terrorism—requested access to classified information relating to the interrogation of another alleged Al Qaeda operative known as Uways. Uways claimed to have interviewed Padilla with others about "deployment" to an Afghanistan training camp, according to the *Times*. Defense lawyers have been provided only an unclassified "summary" of the interrogation, the paper said.

On Tuesday, defense lawyers told the *Miami Herald* that the government's court report contained numerous inaccuracies and mischaracterizations of evidence presented during the trial that were intended to reinforce the government's recommendation for maximum life sentences.

The defense attorneys are pressing for sentences ranging from 21 months to 10 years because of the lack of substantive evidence in the government's case, and in Padilla's case, extreme mental damage inflicted upon him during his detention. "Surely, the court, in arriving at a just sentence for Mr. Padilla," the defense stated in a brief on the government's report, "should take into account that he will serve his sentence in hell."

The Florida *Sun-Sentinel* quoted the prosecution's counter filing, which characterized any request for leniency as "absurd" and "unconvincing." "These arguments demonstrate again that the defendants still have no conception of the seriousness of their crimes...the idea of reducing a terrorist's sentence up front because he may be treated as such in prison defies belief," the prosecution brief declared.

On January 5, Padilla filed a lawsuit in a California district court against a former Bush administration appointee for his role in crafting legal justification for torture and other abuses he was subjected to during his military detention. The suit seeks damages of one dollar and a ruling declaring many abuses illegal. "That's what Padilla directed us to ask for," Jonathan Freiman, one of Padilla's lawyers, told the *New York Times*. "At bottom, this isn't about money. It's about right and wrong."

The appointee, former Justice Department lawyer

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John Yoo, drafted the series of so-called torture memos in 2002 that provided the legal dressing for flagrantly illegal activities, including secret and indefinite detention, denial of access to the courts, and confinements and interrogations in violation of human rights. As deputy assistant attorney general in the Office of Legal Counsel (OLC) in the Department of Justice, Yoo was a key member of the executive branch's "War Council." Padilla's lawyers state that the Justice Department "largely delegated OLC's war-on-terrorism responsibilities to Yoo."

The Bush administration was eager to create a case around Padilla at the time of his detainment. In the first place, controversy surrounding the government's knowledge of potential terrorist attacks before September 11, 2001, was emerging. Padilla's capture was heralded as a victory in the "war on terror," while simultaneously serving as legitimization of detainment of American citizens, indefinite detention, and other breaches of basic democratic rights.

The brief filed January 4 by Padilla's lawyers states that he was subjected to "gross physical and psychological abuse at the hands of federal officials as part of a systematic program of abusive interrogation intended to break down Mr. Padilla's humanity and his will to live."

Violations of Padilla's basic rights—including his access to lawyers, family, information, and the courts for years—were not isolated aberrations of the legal system. Rather, Padilla's lawyers assert, "Yoo, along with other senior officials, deliberately removed Mr. Padilla from due process protections traditionally available to US citizens detained by their government and barred all access to the outside world, including access to counsel." Yoo "personally provided numerous legal memoranda that purported to provide to senior government officials a legal basis to implement an extreme and unprecedented interrogation and detention program—even though such tactics are unprecedented in US history and clearly contrary to the US Constitution and the law of war."

Details of Padilla's experience at the hands of the US government paint a horrendous picture. The brief states that he was subjected to complete isolation save aggressive and brief contact from his interrogators for months at a time. He was even blindfolded and had his ears plugged to continue sensory deprivation during a dental exam, according to his lawyers. He was denied the right to practice his religion. Held in a 9-by-7-foot cell with only a toilet, a sink, and a steel slab to sleep on, he was subjected to noxious fumes, extreme temperatures, "absolute light or darkness for periods in excess of twenty-four hours."

He was denied showers for weeks at a time, then subjected to "forced grooming" at the hands of interrogators. He was subjected to painful, forced "stress" positions, "hooding," forced nakedness, threatened with torture and murder, and given mind-altering chemicals against his will. These abuses were described by the Justice Department memos as "The use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him or his family."

The brief says that Padilla was frequently heard weeping in his cell, and exhibited signs of psychological distress including "involuntary twitching and self-inflicted scratch wounds." When Padilla sought help for chest pain and breathing difficulties, as well as for extreme, chronic pain brought on by stress positions, he was denied.

Not surprisingly, Yoo's lawyer, Eric George, told the *New York Times* Padilla's suit was "a political diatribe" that "belongs, at best, in a journal, not before a federal court."

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