

British resident could face death penalty in Guantánamo trial

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Binyam Mohamed, an Ethiopian national who lived and worked in the UK for more than seven years, was one of four Guantánamo prisoners recently put forward for trial by Military Commission.

The four were charged with terror offences, and their cases referred to the United States military's Convening Authority, which must now decide whether to press ahead with a full trial.

His lawyer Clive Stafford Smith, who had recently visited Mohamed in Guantánamo, told the press he was "in a very bad state," adding that all a trial by Military Commission would produce "is evidence not of terrorism, but of torture."

Stafford Smith said, "I have seen not one shred of evidence against him that was not tortured out of him. We know the British talked to Binyam in Pakistan, told him he was to be rendered and gave information to the US that was used in his torture in Morocco."

Mohamed sought asylum in Britain in 1994 and was subsequently granted indefinite leave to remain in the UK. In 2002, he was kidnapped while travelling in Pakistan and was eventually handed over to the US military. He was then subjected to "extraordinary rendition," being flown in a secret CIA plane to Morocco, where he was held and tortured for 18 months. He claims his captors inflicted severe beatings and also used a scalpel to make cuts to his chest and penis in order to force a "confession" from him.

Before finally being transferred to Guantánamo in September 2004, he was also rendered to the "Dark Prison" in Kabul, the notorious US-run torture facility, where inmates describe being denied food and drinking water while they were chained to walls in total darkness with loud rap music or other sounds blaring out for protracted periods.

The prosecution is alleging that Mohamed was

involved in the so-called "dirty bomb plot" in which American citizen Jose Padilla was supposed to explode a nuclear bomb in a US city. The Miami court that eventually tried Padilla dropped the dirty bomb charge, but this is now being revived against Binyam Mohamed.

If the Military Commission finds him guilty, he could face the death penalty.

Lawyers acting for Mohamed in the UK have recently been successful in forcing a court hearing regarding the disclosure of possible evidence held by the British government that could sustain his claim to having been tortured.

The government response when faced with the initial disclosure request was to say that "the UK is under no obligation under international law to assist foreign courts and tribunals in assuring that torture evidence is not admitted."

However, on June 3, Mr. Justice John Saunders ordered an urgent hearing be held to consider the request for a judicial review following the UK government's refusal to provide information about Mohamed's CIA-sponsored torture in Morocco, and that it was consequently refusing to help him prove either that he was tortured or that he is innocent of the charges he now faces from the Military Commission.

In his ruling, Mr. Justice Saunders wrote that if it were correct "that in the course of an interrogation, in which material supplied by the Defendant [HM Government] was employed, the Claimant [Binyam Mohamed] was tortured, then it is arguable that there is an obligation to disclose material which may assist Claimant in establishing before the American Military Court that he was tortured."

In testimony to the Foreign Affairs Select Committee in December 2005, the then-Foreign Secretary Jack

Straw admitted that British Security Service officers had indeed visited Mohamed while he was detained in Pakistan.

Mohamed's legal team have been able to amass crucial information pointing to British complicity in his interrogations, and knowledge of his rendition to torture, which led to his lawyers submitting a list of requests to Foreign Secretary David Miliband at the end of March 2008.

In their letter to Miliband, they requested an extensive list of items including evidence concerning UK foreknowledge of Mohamed's rendition from Pakistan, and particularly "the identity of the US agents involved, so that they can be traced and interviewed or subpoenaed."

Mohamed claims that representatives of the British intelligence services who visited him while in custody in Pakistan said they knew he was a "nobody," indicating that the British intelligence services and police had carried out investigations into his activities whilst in the UK. Such evidence held by the British authorities could show that he did not represent a terrorist threat, which his lawyers insist "forms a necessary part of his defence."

Consequently, his lawyers also asked to interview and take statements from these UK agents who had spoken to Mohamed in Pakistan, and who "informed him that he was going to be rendered to an Arab country for torture."

As his lawyers point out, "Such evidence will be central to the defence of Mr. Mohamed because any evidence obtained as a result of torture is inadmissible."



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