

Torture victim Jose Padilla sentenced to 21 years

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In the second sentencing proceeding of alleged Al Qaeda supporter Jose Padilla, a Miami federal district court on Tuesday handed down a sentence of 21 years. Padilla, a 43-year-old who converted to Islam in the 1990s following a troubled adolescence as a Chicago gang member, will remain in the federal supermax prison in Florence, Colorado until his mid 60s.

The same court initially sentenced Padilla to a 17-year sentence in 2007 but federal prosecutors appealed, arguing that only a sentence ranging from 30 years to life would be appropriate. The 11th Circuit Court of Appeals in Atlanta subsequently ruled in a 2-to-1 decision that the 17-year sentence was too lenient. In particular, the 11th Circuit held that the lower court should not have considered Padilla's three years and eight months of brutal military confinement as time served.

An important, if not primary, motivation in the prosecution was to cover up the sordid details of one of the more extreme and depraved cases of US government torture.

Jose Padilla's persecution began with his arrest in May 2002 at Chicago's O'Hare International airport, supposedly because he was a material witness to the September 11, 2001 terror attacks. The presidential administration of George W. Bush came under scrutiny following revelations that it negligently overlooked prior warnings that the September 11 attacks were being prepared. To deflect this criticism and to claim a prominent victory in the war on terror, Attorney General John Ashcroft held a press conference in June 2002 claiming that Padilla had planned to detonate a "dirty bomb" within the United States, aimed at spreading radioactive waste and inflicting mass casualties.

The uncritical US media establishment took its cue

from the White House and ran incessant coverage of the alleged "dirty bomb" plot. Meanwhile, the Bush administration labeled Padilla an "enemy combatant"—a pseudo-legal category designed to undermine a myriad of constitutional rights—and stowed him away in a Navy prison in Charleston, South Carolina under the most barbaric conditions.

Padilla's treatment at the Charleston Navy brig included not only solitary confinement, itself widely held to be torture, but also being held *incommunicado* from any legal counsel, friends or family. He was denied any sunlight. Padilla underwent sleep deprivation, including being denied a bed, pillow or blanket, and exposure to extreme temperatures and noises, noxious odors, constant and intense light, and being forced into painful high-stress positions.

Perhaps most shocking of all, Padilla's military jailers made him consume the psychotropic drugs LSD and PCP, supposedly to make him reveal information. Psychological examiners would later find that Padilla suffered brain damage during this period.

Fearing rebuke from the US Supreme Court for Padilla's illegal military detention, the Bush administration transferred him to a civilian jail and prosecuted him on terrorism and conspiracy charges in 2005.

Significantly, the new charges had absolutely nothing to do with the much-touted "dirty bomb" plot years earlier. The government in fact never released any evidence of such a plot. The new charges concerned Padilla's alleged intention of attending an Al Qaeda terrorist training camp.

Initially, Padilla's lawyers moved that the case should be dismissed due to the government's illegal detention and torture of the defendant, which made him mentally unfit to stand trial, a motion that the court

denied.

Prosecutors introduced taped phone conversations of Padilla and his associates, as well as a document purporting to be his application to attend the Al Qaeda camp. Padilla's lawyers argued that the defendant was recruited on the basis of his lack of sophistication—Padilla only finished seventh grade and had very limited knowledge of world affairs—and sympathy for Muslims being persecuted in Chechnya and other parts of the world. There was no evidence that Padilla ever went to the training camp, or concocted or participated in any terror plot or hurt anyone.

In preparing for the resentencing hearing, Padilla's lawyer subpoenaed records from the government documenting his torture. In response, prosecutors agreed to ask for a lesser range of possible sentences—between 21 and 30 years instead of 30 to life—in exchange for the defense counsel's agreement not to use any materials he received by way of the subpoena. This agreement mirrored a similar one that arose during trial, where prosecutors agreed that they would not introduce any statements or confessions by Padilla provided that the defense refrain from mentioning Padilla's torture at the hands of the government.

The government conducted and recorded at least 88 interrogations of Padilla during his detention. Court documents indicate that a DVD recording of Padilla's last interrogation was "lost."

During the resentencing hearing, judge Cooke evinced regret that the original sentence of 17 years was overturned by the 11th Circuit. She lamented that Padilla's sentence would far exceed that of the two accomplices who actually recruited him.

In argument, Padilla's lawyer referred to the case of Ali Saleh al-Marri, who was also designated an enemy combatant and held at the Charleston brig for six years, during which time he deteriorated psychologically to the point of smearing his feces on the walls of his cell. In al-Marri's case, there was direct evidence tying him to alleged Al Qaeda mastermind Khalid Sheikh Mohammed. Al-Marri accepted a plea deal and will be released in January 2015.

At the hearing before Tuesday's decision, Padilla's mother and brother pleaded with the court for leniency.

"His mind is not there. Jose's mind is gone," Estela Lebron, Padilla's mother, told US District Judge

Marcia Cooke, in reference to the brain damage Padilla incurred from years of torture while he was held at a Navy brig as an enemy combatant. "I don't know if it is going to come back," Lebron said.

"I pray that when he gets out [of prison] he will be able to function again ... use his mind," said Padilla's brother, Tomas Texidor. He added, "I can't believe this is happening in this country."



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