

AMNESTY INTERNATIONAL PUBLIC STATEMENT

AI Index: AMR 51/008/2008

Date: 22 January 2008

Jose Padilla Sentenced: Concerns about Justice Remain

As Jose Padilla begins a prison sentence of 17 years and four months, following his conviction last year of involvement in a broad terrorism-related conspiracy, Amnesty International has the following concerns about the case, both as regards his military detention and the fairness of his subsequent criminal trial.

Amnesty International remains concerned about the lack of accountability for Jose Padilla's three and a half years of detention without charge or trial in US military custody, where he was subjected to extreme isolation and other ill-treatment possibly amounting to torture. As the US government declined to introduce at the trial any information obtained during Padilla's military detention – information which may have been open to challenge on grounds that it was coerced – his treatment did not come under scrutiny during the proceedings.

The undisputed facts regarding Jose Padilla's military detention show that he was subjected to a number of serious violations of international law, including prolonged arbitrary detention and incommunicado detention (itself a form of ill-treatment). For these, and possible further violations, including torture, he has the right to redress. The fact that he was eventually convicted of serious crimes after a trial is no reason to sidestep these concerns and allow the US government to flout international law with impunity.

Amnesty International calls for fair trials in ordinary civilian courts in the case of anyone against whom there is evidence sufficient to warrant trial for properly-framed terrorism-related offences. While Jose Padilla eventually had his day in court, the organization believes there are troubling questions surrounding the fairness of his trial. Although the trial court ruled that his treatment in military custody was irrelevant to the criminal proceedings, Amnesty International believes it is impossible to ignore the context of that detention when

considering certain fundamental issues, including the presumption of innocence, right to a speedy trial and Padilla's effective ability to assist in his defence.

From the moment he was transferred to military custody as an "enemy combatant" in June 2002, and throughout his military detention, Jose Padilla became known worldwide as the "dirty bomber", due to public pronouncements by the US government describing him as a highly trained *al-Qa'ida* operative who had plotted to explode a radiological dirty bomb over a US city. When he was eventually charged in federal court in November 2005, the indictment made no mention of such a plot. Instead, his case was added to that of two other defendants and he was accused on charges of conspiring to murder, kidnap and maim persons in a foreign country and providing material support to a terrorist organization.

At his trial last year, part of which was attended by an Amnesty International observer, prosecutors introduced no evidence of Jose Padilla being involved in planning or carrying out any specific terrorist plot or violent act. The main evidence against him was an application form prosecutors said he had filled out to join an *al-Qa'ida* training camp in Afghanistan in 2000. The prosecution also introduced evidence from intercepts of telephone conversations. Jose Padilla's voice was heard on only seven of thousands of such intercepts and he was not accused of using purported codes for violent jihad which the prosecution introduced as evidence against the co-accused. The jury found all three defendants guilty on all counts after deliberating for less than two days.

In Amnesty International's view, the years of public branding of Jose Padilla as a dangerous terrorist linked to *al-Qa'ida* may have done irrevocable damage to his presumption of innocence, despite the screening of jurors. Prejudicial statements outside the courtroom may be even more damaging when the evidence presented at trial is relatively thin, as in Padilla's case. Trying him together with two other defendants -- Adham Amin Hassoun and Kifah Wael Jayyousi -- may also have had a further, possibly mutually, prejudicial impact: the defendants had sought unsuccessfully to have their cases separated.

While Padilla was found mentally competent to stand trial, Amnesty International believes that serious concerns remain about his mental state, based on his treatment in military custody, and how far this diminished his capacity to assist in his own defence. He was found competent despite expert evidence at a pre-trial hearing that he was suffering from post-traumatic stress disorder which reduced his capacity to engage effectively with his lawyers. The competency test

under US law is a narrow one, requiring that a defendant have a basic capacity to understand the proceedings and communicate with his lawyers; mental impairment alone is insufficient to meet a claim.

It is undisputed that Jose Padilla was held in almost total isolation for 43 months, denied a lawyer for 21 months, subjected to long periods of sensory deprivation (including being held in a small cell with windows blacked out and no clock or calendar) at times had his mattress and Koran removed and was subjected to periods of extreme noise and bright lights. He was subjected to repeated interrogations under a regime which a government document has acknowledged was designed to break him down and make him dependent on his captors.

Efforts to raise other issues, such as Jose Padilla's right to a speedy trial, were hampered by a federal district court ruling that, for the purpose of the criminal prosecution, Padilla's incarceration began from the time he was criminally charged in late 2005. AI considers such a ruling inappropriate where the individual was initially arrested by federal agents at a civilian airport for reasons which from the very outset would have made him liable for criminal prosecution but was removed for years from the justice system before being charged.

When Jose Padilla was convicted, his trial was hailed as proving that prosecutions for terrorist-related crimes can be successfully pursued in the ordinary federal courts. While Amnesty International fully supports this notion in principle, the organization remains unpersuaded that justice was done or seen to be done in this case. By transforming Jose Padilla into an "enemy combatant" and treating him as a potential source of intelligence to be subjected to isolation and interrogation rather than provided due process as a criminal defendant, the US government undermined the judicial system and violated fundamental human rights principles. Amnesty International will continue to monitor Jose Padilla's case on appeal, and calls on the USA to investigate and provide remedies for the human rights violations to which he was subjected prior to his trial.

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