

Special Report

Gitmo's kangaroo court: First torture them, then rig their trials

By Johsua Frank

Online Journal Guest Writer

August 9, 2005—The Australian Broadcasting Corporation (ABC) obtained two leaked emails from former military prosecutors at Guantanamo Bay over the weekend. The emails both claim that the military committees set up to try detainees at Guantanamo Bay in Cuba are "rigged, fraudulent, and thin on evidence against the accused."

In the first email obtained by the Australian news organization, Gitmo prosecutor, Major Robert Preston, wrote to his supervisor that the trial process at Guantanamo was perpetrating a fraud on the American public. Preston also wrote that the cases being tried were insignificant at best.

"I consider the insistence on pressing ahead with cases that would be marginal even if properly prepared to be a severe threat to the reputation of the military justice system and even a fraud on the American people," Preston wrote. "Surely they don't expect that this fairly half-arsed effort is all that we have been able to put together after all this time . . . I lie awake worrying about this every night," he wrote.

"I find it almost impossible to focus on my part of mission . . . After all, writing a motion saying that the process will be full and fair when you don't really believe it is kind of hard, particularly when you want to call yourself an officer and lawyer."

Shortly after Preston sent these emails to his superior he was transferred from his post.

In the second email obtained by the ABC, Captain John Carr, who also left his position after his email claimed that the commissions at the prison appeared to be rigged, wrote, "When I volunteered to assist with this process and was assigned to this office, I expected there would at least be a minimal effort to establish a fair process and diligently prepare cases against significant accused. Instead, I find a half-hearted and disorganized effort by a skeleton group of relatively inexperienced attorneys to prosecute fairly low-level accused in a process that appears to be rigged."

Carr also wrote that Gitmo prosecutors were continually told by the chief prosecutor that the panel set up to try detainees was specially selected in order to guarantee convictions.

"You have repeatedly said to the office that the military panel will be handpicked and will not acquit these detainees and that we only needed to worry about building a record for the review panel," Carr wrote.

I'm sure most readers of these pages aren't the least bit surprised by these two former military prosecutors allegations. As we already know, justice isn't being dished out at Gitmo. It's being choked out. The actions of the US military in Guantanamo's court are in defiance of the Supreme Court's order in the Hamdi v Rumsfeld case in which Justice O'Connor, writing the majority opinion, argued that Guantanamo detainees must be given "a meaningful opportunity to contest the factual basis for that detention before a neutral decision maker."

Alas, fairness isn't the issue here. As the aforementioned case guaranteed, despite the detainees "meaningful opportunity to contest" their detentions, they are still not allowed any meaningful legal retaliatory rights.

Writing for CounterPunch on June 29 of 2003, Elaine Cassel explained, "On this one (the Hamdi case), a 6–3 majority ruled that those poor bastards in Guantanamo, those men that have been there for going on three years and, we now presume, subject to all kinds of physical torture and mental and sexual abuse, can file a petition for writ of habeas corpus challenging their detention, but, so what? The court was silent on what trial courts will do with the petitions. Presumably, let them file their papers then promptly toss them out."

So there you have it: first the trials at Gitmo are rigged, then the unjustly convicted are not allowed to challenge their incarcerations. All ethical considerations aside - what we have here is a constitutional crisis of epic proportions.

Joshua Frank is the author of the brand new book, "Left Out!: How Liberals Helped Reelect George W. Bush," which has just been published by Common Courage Press. You can order a copy at a discounted rate at www.brickburner.org. Joshua can be reached at Joshua@brickburner.org.

Copyright © 1998–2005 Online Journal™. All rights reserved.