



Written by [Ann Shibler](#) on April 8, 2009

Government Witness Under Psychiatric Care

And yet this man was a key witness for the government in detaining Aymen Saeed Batarfi, a physician from Yemen who's accused of being either a Taliban or al-Qaeda member, and in other significant cases.

Nor is this not the only doubtful witness used by the Department of Justice. Detainee Yasim Muhammed Basardah gave evidence in dozens of cases, even though his reliability was questioned by military officials from the start.

The records were accidentally released by the DOJ to Batarfi's lawyer, Bill Murphy, who said, "Given the nature of the medical records about this particular detainee it is difficult to conceive how the government might offer him as a credible witness." Federal Judge Emmet Sullivan went thoroughly ballistic when he learned of the information contained in the medical records and the effect on Batarfi's case, even threatening the DOJ with contempt, an extraordinary measure:

To hide relevant and exculpatory evidence from counsel and from the court under any circumstances, particularly here where there is no other means to discover this information and where the stakes are so very high . . . is fundamentally unjust, outrageous and will not be tolerated.

How can this court have any confidence whatsoever in the United States government to comply with its obligations and to be truthful to the court?

I'm not going to let this case drag on, or any of the other cases on my calendar, indefinitely while the government embarks on what it calls its diplomatic process, because I have seen in the past that that diplomatic process can indeed span months and years, and I have some serious concerns as to whether it's yet and still another ploy . . . to continue with his deprivation of his fair day in court.

I'm not going to continue to tolerate indefinite delay on the part of the United States government. I mean this Guantanamo issue is a travesty . . . a horror story . . . and I'm not going to buy into an extended indefinite delay of this man's stay at Guantanamo.

Judge Sullivan then ordered the DOJ to notify other judges in Guantanamo cases of the psychiatric records of the witness so the damage in those cases could be assessed as well.

The DOJ insists its prosecutors should not be found in contempt, responding with the usual cliches that





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they “have worked diligently and in good faith to produce information concerning credibility of the detainee-witness.” But no one is buying it.

Judge Sullivan further warned the DOJ, “I’ll tell you frankly if I have to start incarcerating people to get my point across I’m going to start at the top.”

Mr. Holder, is there anything you’d like to say?

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