



Written by [Joe Wolverton, II, J.D.](#) on December 14, 2011

Fed “Supermax” Facilities House Convicted Terrorists: Due Process Violation

The four co-petitioners are Omar Rezaq, Ibrahim Elgabrownny, El-Sayyid Nosair, and Mohammed Salameh. While these names may not sound familiar, their deeds are infamous. A brief “rap sheet” for each follows.



Omar Mohammed Ali Rezaq is the sole surviving hijacker of EgyptAir Flight 648. He was one of three members of the militant Palestinian organization Abu Nidal (named for the founder of Fatah, Abu Nidal) who participated in the hijacking of the plane in 1985. The other two hijackers were gunned down either by armed sky marshals or by Egyptian commandos who stormed onto the airplane. On July 19, 1996, a federal district judge sentenced Rezaq to life imprisonment for his role in the hijacking.

Ibrahim A. Elgabrownny was indicted as a co-conspirator in the bombing of the World Trade Center in 1993. The [L.A. Times](#) described his indictment as "an important bridge between the alleged plan to carry out the multisite bombings and the actual explosion at the trade center on Feb. 26 in Lower Manhattan that killed six people and injured more than 1,000."

El Sayyid Nosair (born November 16, 1955 in Egypt) is an American citizen, convicted of involvement in the 1993 World Trade Center bombing.

Mohammed Salameh was also convicted of conspiring in 1993 to blow up the World Trade Center. Salameh's 1978 Chevy Nova ferried to the World Trade Center the nitric acid and urea used to construct the bomb.

Each of these men is a murderer without a word of good that can be said for them. That said, however, they are yet protected by the Constitution's guarantee of the application of the due process of the law to everyone convicted of a crime.

Specifically, these convicted terrorists claim that when they were transferred from regular confinement facilities to super maximum security prisons (Supermax), they were deprived of due process, as they had committed no additional offense that would justify the decrease in liberty. Further, they assert that the government of the United States failed to afford them a hearing on the need to move them to the unusually restrictive prison.

When the petition was filed with the federal district court, the judge in that matter ruled against the four terrorists and held that their transfer was constitutionally sound.

The arguments put forth in their complaint and the court's assessment thereof were [reported by the](#)



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[Denver Post:](#)

Attorney Laura Rovner, a University of Denver professor who represents the prisoners, said the lawsuits seek "to ensure that when prisoners are placed in ADX, they have a reason to be there."

But her arguments before the 10th Circuit faced an immediate hurdle. After the lawsuits were filed, the government moved each of the terrorists to less-restrictive prisons and changed the procedures for assigning prisoners to Supermax.

Members of the three-judge panel that heard the case Thursday morning quizzed Rovner about whether that made the whole case moot.

Rovner countered that there was a continuing stigma attached to the prisoners because they had been once assigned to Supermax. She said the terrorists were still being housed in specialty units where their communications are tightly monitored — even though, she said, nothing about their conduct in prison has suggested they are an ongoing threat.

Juan Villaseñor, an assistant U.S. attorney, disputed that having once been in Supermax created continued consequences for the terrorists. "It's really not that simple," he said.

The 10th Circuit Court of Appeals has yet to render a decision in the case.

As important as are the fundamental constitutional issues at the core of the appeal described above, there is the curious question of exactly what is this "Supermax" that houses these notorious convicted killers.

Recently, the *New York Times* [published an interesting article](#) on the bizarre majority-Muslim population of these ultra-maximum security prisons.

Among them is Ismail Royer, serving 20 years for helping friends go to an extremist training camp in Pakistan. In a letter from the highest-security prison in the United States, Mr. Royer describes his remarkable neighbors at twice-a-week outdoor exercise sessions, each prisoner alone in his own wire cage under the Colorado sky. "That's really the only interaction I have with other inmates," he wrote from the federal Supermax, 100 miles south of Denver.

There is Richard Reid, the shoe bomber, Mr. Royer wrote. Terry Nichols, who conspired to blow up the Oklahoma City federal building. Ahmed Ressam, the would-be "millennium bomber," who plotted to attack Los Angeles International Airport. And Eric Rudolph, who bombed abortion clinics and the 1996 Summer Olympics in Atlanta.

According to this letter cited by the *New York Times*, Ismael Royer (a 38-year-old Missourian born Randall Royer) virtually rubs shoulders twice a week at exercise sessions with some of the most high-profile convicted terrorists in the history of the United States. And his cell, each of their cells, is in Colorado, not Cuba.

The [Supermax facility is located near Florence, Colorado](#), (100 miles south of Denver) and is known in penitentiary parlance as ADX.

The *Times* article makes a point that should at once be obvious to readers regarding the esprit de corps that might be engendered among such unusual inmates:

Since 2006, the Bureau of Prisons has moved many of those convicted in terrorism cases to two special units that severely restrict visits and phone calls. But in creating what are Muslim-dominated units, prison officials have inadvertently fostered a sense of solidarity and defiance.



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The potential pitfalls inherent in mingling such misanthropes and murderers are cited by an academic quoted in the *Times* piece: "There's a huge national debate about how dangerous these people are," said Gary LaFree, director of a national terrorism study center at the University of Maryland, who was lead author of the proposal. "I just think, as a citizen, somebody ought to be studying this."

There is another issue, however, that affects not only the safety of the citizens of the United States from future attacks by criminals with murderous intent, but their long-term freedom from tyranny, as well.

The procedures set forth in the Constitution for the protection of civil liberties apply to all, even to those convicted of the most heinous and reprehensible crimes.

In the United States, due process requires that the individual charged with a crime is protected from the abuse of the state at every stage of the legal process: charges, hearing, trial, and sentencing. These rights exist as a matter of the rule of law and may never be waived.

After all, it is the process that is "due" to all, regardless of their moral stature. These procedures serve to check the power of the state, preventing it from issuing arbitrary rulings robbing suspects of their life or liberty.



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