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U.S. Judge Frees Guantanamo Detainee

Judge James Robertson of the U.S. District Court for the District of Columbia ordered on March 22 that Mohamedou Ould Slahi, a native of Mauritania, be released from the U.S. military prison at Guantánamo Bay, Cuba.

Reuters news noted that Slahi was described in the report of the 9/11 Commission that investigated the September 11 terrorist attacks as "a significant al Qaeda operative" who helped arrange for the group's Hamburg cell members to travel to Afghanistan for training.



Robertson's ruling is classified, but a declassified version, with details of the judge's decision, is expected to be released at a later time, but Robertson didn't say when. Reuters quoted Justice Department spokesman Dean Boyd, who said the agency "was reviewing the decision."

AP cited the 9/11 Commission report's statement that Salahi was known to U.S. and German intelligence a decade ago when he was an imam in Hamburg, Germany. While there, he gave instructions to four men about how to reach Afghanistan to train for jihad.

Three of the men — Mohamed Atta, Ziad Jarrah, and Marwan al Shehhi — later became September 11 hijackers. The fourth was Ramzi Binalshibh, who helped coordinate the 9/11 plot and who is now facing trial.

An AFP report noted that in his filed statement, Slahi said he handed himself in to Mauritanian authorities after the September 11 terror strikes. "My government extradited me eventually to the U.S., and since then I am being detained in GTMO, Cuba," he wrote in part.

Following his surrender, Slahi was handed over first to Jordan for interrogation and then to U.S. forces in Afghanistan. Despite the accusations against him, Slahi was never tried in a military court. "I have done no crimes against the U.S. nor did the U.S. charge me with crimes, thus, I am filing for my immediate release," he also wrote.

Carol Rosenberg, a reporter for the *Miami Herald* whose column was distributed by McClatchy newspapers, noted that Slahi is the 34th Guantánamo detainee ordered freed since the U.S. Supreme Court ruled that detainees could challenge their incarceration in federal court, but his name was already well known because of investigations into detainee abuse.

Those probes, noted Rosenberg, found that Slahi had been subjected to sleep deprivation, exposed to extremes of heat and cold, moved around the base blindfolded, and at one point taken into the bay on a boat and threatened with death. Investigators also found that interrogators had told Slahi they would arrest his mother and have her incarcerated as the only female detainee at Guantánamo if he did not cooperate.

The interrogations were reportedly so abusive that a highly regarded Pentagon lawyer, Marine Lt. Col. Stuart Couch, quit the case five years ago rather than prosecute Slahi as part of the Bush



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administration's first effort to stage military commissions.

"He's been incarcerated, tortured and interrogated and rendered illegally," Rosenberg quoted attorney Nancy Hollander of Albuquerque, New Mexico, who represents Slahi free of charge. "After almost 10 years the government has not been able to meet the minimal burden to detain him that's required under habeas. He should be free," Hollander added.

Rosenberg summarized Robertson's role in deciding the fate of Guantánamo prisoners as follows

Robertson, a former U.S. Navy officer, has had oversight of Guantánamo cases for years. In 2004 he ruled that the Bush administration's first attempt to stage military commissions was unconstitutional in the case of Osama bin Laden's driver, Salim Hamdan. Hamdan's case led to a Supreme Court ruling that the Bush administration had exceeded its authority in setting up the commissions. Hamdan was later convicted of supporting a terrorist organization before a military commission. He was released after serving an additional five months and is now free in Yemen.

In an editorial for Salon.com headlined "[Release of Guantanamo detainee has everything to do with torture](#)," journalist Rozina Ali sharply disagreed with the conclusion of "several Fox News hosts [that] suggested that Robertson's decision was a result of President Obama's push for civilian trials for some Guantánamo detainees." Ali based her position on Lt. Col. Stuart Couch's strong dissatisfaction with the way the government was pursuing its case against Slahi, noting:

In March 2004, Lt. Col. Stuart Couch, the prosecutor in Slahi's military trial, halted that process, claiming that the evidence against Slahi had been obtained through torture and was thus inadmissible under U.S. and international law. It is this mistreatment, ultimately, that allowed Slahi to win his release this week.

After listing some of the torture techniques that had been approved in 2003 by then-Defense Secretary Donald Rumsfeld (including sleep deprivation, emotional abuse, hooding, strip-searching using female interrogators, and using dogs to agitate and shock detainees) Ali concluded:

Almost as frightening as these techniques was the gross disregard for the rule of law, even within the convoluted legal world of Guantánamo. Interrogators had already started using some special techniques five days before Rumsfeld approved the memo. Moreover, Slahi had already agreed to cooperate by August 2003, but interrogations continued for months after anyway.

The acceptability of using such no-holds-barred interrogation techniques is often seen through the same lenses used to categorize the American public's views on crime in general, with emphasis on civil rights seen as a natural attribute of social "liberals," while law-and-order "conservatives" are expected to embrace a tough-on-criminals stance.

Such stereotyping, however, can be used to mindlessly stampede Americans into holding one of two viewpoints preselected by those more interested in enhancing the power of government than protecting Americans from foreign invaders. The first such position, favored by those of the "liberal" persuasion, is that reasonable efforts to control our borders and enforce our immigration laws is "xenophobia" and that such discrimination against foreigners is unacceptable.

If 9/11 proved anything, it was that U.S. intelligence needs to be bolstered and that our government needs to be *more* mindful of aliens in our midst, and *more* discriminating about to whom entry visas should be granted.

The opposing, supposedly "conservative" position, however, is potentially even more dangerous to our



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liberties. It is that 9/11 inaugurated a “war on terror” that justifies the suspension of the Bill of Rights whenever and wherever “national security” dictates.

Almost immediately after 9/11, the enactment of the USA Patriot Act set our government’s intelligence agencies on a course that included such patently unconstitutional actions as warrantless wiretapping, overturning the Constitution under the guise of combating terrorism, and other crime.

Not many years ago, it was understood that the label “conservative” was shorthand for *constitutional* conservative — one who believes in conserving the protections demanded by the Constitution. But with the name “conservative” now largely co-opted by the “neoconservative” wing of the Republican Party, the term has as little to do with conserving the Constitution, as “liberal” has to do with maintaining the Jeffersonian concept of God-given rights.

Today’s defenders of the Bill of Rights prefer the name “constitutionalist,” and as such, will tirelessly defend *all* of the Constitution, especially articles of the Bill of Rights that protect individual freedom against governmental tyranny.

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