

Brief Analysis and Review of Counter Terrorism Legislation Jose Padilla Trial by Kenneth George Pereire, Research Analyst, ICPVTR (PART II) June 2007

1. Testimony Begins in US Terrorism Trial

Source: NewsVOAcom: <http://www.voanews.com/english/2007-05-15-voa66.cfm>

Dated: 15 May 2007

Synopsis:

A U.S. court has begun hearing testimony from witnesses in the terrorism trial of Jose Padilla, an American convert to Islam. From Miami, VOA's Brian Wagner reports the alleged Al Qaeda recruit is accused of planning to help commit terrorist acts around the world. Padilla is standing trial with two other men who are accused of operating a terrorist cell in south Florida which recruited people to fight alongside Islamic extremists in other countries. Defence attorneys however say that the men had no links to Al Qaeda and only sought to aid Muslims who were being attacked in places like Chechnya and Kosovo in the 1990s.

Analysis and Assessment:

The jury trial of Jose Padilla has important implications for strengthening counter terrorism legislation in the US. This is because despite calls to strengthen counter terrorism legislation by the Bush administration, human rights and civil rights groups are critical of counter terrorism legislation which they argue has the potential of rolling back and undermining human rights and individual liberties. Already, the Bush administration has faced repeated criticism over its treatment of Padilla since his arrest at Chicago's O'Hare International Airport in 2002.

This could be an important mitigating factor for Padilla during his prosecution and many analysts and observers alike are interested in witnessing to what extent Padilla's alleged ill treatment is likely to be factored into consideration by the courts and whether it will affect his prosecution. How Jose Padilla will finally be convicted has significant implications for how other 'alleged terrorists' will be eventually dealt with in future trials and how future anti-terrorism legislation will play out. There are hundreds, if not thousands more 'alleged terrorists' awaiting trial in Guantanamo Bay, Cuba for example.

More importantly, the trial has broader implications for how anti-terrorism legislation will finally evolve and take shape in the US and for other countries in the world enacting suitable anti-terrorism legislation. For example, if Padilla's Defence attorneys, aided by witnesses in the trial, can provide evidence that Padilla was tortured while in military custody and suffered mental damage as a result, this may affect how Padilla is finally prosecuted and sentenced. There are many more individuals like Padilla awaiting sentencing. If Padilla's defence is successful in convincing the courts that Padilla was indeed tortured, this judgement can affect future trials and eventually water down anti-terrorism legislation.

If the Courts are not convinced that Padilla was tortured while in military custody, and insist on sentencing him as an enemy combatant under military custody, this could favour the case for strengthened anti-terrorism legislation. Detainees in Guantanamo Bay and other detention centres will eventually be prosecuted under new terrorism laws which are likely to be even harsher. This will be a setback for human rights activist who argue that anti-terrorism legislations wears away civil liberties and freedoms and has the potential to severely curtail legitimate political activity.

Wake Forest University law professor Bobby Chesney says that the jury trial, which is expected to last more than three months, may be a key test of recent efforts to strengthen U.S. anti-terrorism legislation. "It's an important case both as a question of the scope of criminal law in the terrorism context, and of course given the great amount of attention drawn by Jose Padilla. It is important politically as well" he said. Indeed, the case against Padilla has broader political implications. Many analysts have already determined the invasion of Iraq, following the U.S. War on Terror, as a massive failure, comparable to the Vietnam War. This will impact how effectively the Bush Administration can convince the Senate the case in favour of strengthening anti-terror legislation.

The Jose Padilla trial just might be the landmark trial that could determine how future detainees are finally tried. It is too early to judge as we never know what might happen during trials. Analysts, political observers as well as human rights groups will certainly be interested in the outcome of the trial.

Written By:
Kenneth Pereire
Research Analyst
June 2007