

TORTURED CONFESSION EVIDENCE TOSSED IN FIRST DAY OF HAMDAN TRIAL

The Bushco Torture Brigade is on a bad luck streak in dancing school. Four beatdowns by the Supreme Court on the legality/Constitutionality of their torture and trial program is beyond bad. Four drubbings of this type for a Presidential Administration, during a supposed time of war, is simply unheard of.

When Bushco got the ruling late last week that they could proceed with their first gulag trial against Salim Hamdan, they were ecstatic. Smug in the self satisfaction that the first show trial, of the many they have been pining for, would not be further delayed, Hamdan was rushed to the Guantanamo dock and the trial commenced this morning. So far, so good.

But wait, there's more; and it's not good for Bushco's cherished show trial dreams. Not even one full day into the show, and even the hand selected military judge, Keith Allred, is sending Bushco up the proverbial creek without their torture evidence paddle. From the CBC:

Judge Keith Allred, the navy captain presiding at the trial, decided Monday to bar evidence obtained from Hamdan by interrogators under "highly coercive" conditions in Afghanistan, saying prosecutors cannot use statements he made shortly after his capture at the Bagram air base and Panshir in Afghanistan.

Hamdan has said he endured beatings and solitary confinement at those locations.

The judge left the door open for the prosecution to use other statements Hamdan gave elsewhere in Afghanistan and

at Guantanamo.

Michael Berrigan, the deputy chief defence counsel, described the ruling as a major blow to the tribunal system that allows hearsay and evidence obtained through coercion.

"It's a very significant ruling because these prosecutions are built to make full advantage of statements obtained from detainees," he said.

Berrigan is exactly right, this is a major blow. And it is a blow with far reaching consequences too, because it sets the tone, in an absolutely blistering manner, for the considerations on the Habeas petitions about to be considered by Royce Lamberth's designated judge, Tom Hogan. What will the government do now? Ah, well...

Prosecutors are considering whether to appeal the judge's ruling – a development that could halt the trial of Salim Hamdan that began earlier Monday after years of delays and legal setbacks.

"We need to evaluate ... to what extent it has an impact on our ability to fully portray his criminality in this case, but also what it might set out for future cases," said Army Col. Lawrence Morris, the tribunals' chief prosecutor.

Irony is a bitch when you are a Bush.

UPDATE: An additional portion from the bottom of the MSNBC report that I overlooked (h/t Frank Probst) when writing the initial post relates:

In addition to the other interrogations, the judge said he would throw out statements whenever a government witness is unavailable to vouch for the questioners' tactics. He also withheld a ruling on a key interrogation at Guantanamo in May 2003 until defense

lawyers can review roughly 600 pages of confinement records provided by the government on Sunday night.

This is incredibly significant. If Judge Allred follows through with this determination as stated in the above report, it is of unbelievable far reaching significance. Said position by Allred effectively indicates that all confessions by Hamdan (and arguably the remaining detainees when brought to trial too) will be presumed coerced or otherwise inadmissible without foundational testimony from a government officer or agent, with a sufficient nexus to the case to be credible, being made on the record. Although, at first blush, it would not seem to require live testimony, it would require a live human being going on the official record to vouch to a court of law that abusive actions/torture were not behind each and every statement by the defendant sought to be used. It is extremely hard to imagine who, at this point, is going to be willing to do that.

It is impossible to really nail down the exact parameters of Allred's rulings, and the full scope of the implications therefrom, without being able to see the official language of the order or transcript. There is, however, preliminary reason to believe that this may be a game changing moment with monumental ramifications to the entire detainee trial process. There is, as stated above, no way that this will not bleed over to the DC District courtroom of Judge Thomas Hogan and his considerations of the Habeas petitions.

Cheney, Addington, and all of King George's horses and men will be furiously seeking to have the Democratically controlled Congress serve their whims and bail them out again through legislation sanctioning and ratifying their unconscionable acts. As Marcy said:

Sadly, Mukasey knows he's got a really compliant Congress going into an election season, a Congress which has

shown absolutely no ability to withstand requests like this, even if they are transparently designed to help the Administration avoid consequences for its actions.

So what's it going to be Democratic leadership? You have already sold out the American people and the Fourth Amendment to their Constitution with your craven cave on the FISA crimes; are you going to apply the *coup de gras* and sell out the Geneva Conventions, the Torture Conventions and basic humanity too?