BASHAR AL-ASSAD, GITMO JUDGE AND JURY

As Steven Aftergood reported, Syrian Gitmo detainee Abdulhadi Omer Mahmoud Faraj has challenged the government's inane policy prohibiting detainee attorneys from refuting the claims made in Gitmo files. The motion argues that letting the claims go unrebutted jeopardizes any chance Faraj might have for repatriation or resettlement, and even endangers his family in Syria.

Abu Zubaydah's Evidence

One problem, the motion argues, is the allegations in his Gitmo file come from, "unreliable claims made by individuals under conditions that amount to coercion, if not torture." Faraj's Gitmo file includes the following claims:

- In a 2002 CIA report, Abdurahman Khadr (Omar's brother, who was then working as a CIA informant) said the Syrian guesthouse in Kabul at which Faraj stayed conducted document forgery
- In a 2002 CIA report, Abu Zubaydah said he helped fund the Syrian guesthouse
- In a 2002, 2003, and 2005 CIA reports, Abu Zubaydah said one person at the guesthouse was an expert forger, another was a bomber with ties to Abu Musab al-Zarqawi, and a third met with him in 2001; only the

third, Maasoum Abdah Mouhammad, is among the group of 4-5 Syrians with whom Faraj allegedly had the closest ties, and he was transferred to Bulgaria in 2010

- Mohammed Basardah, notorious for falsely implicating a large number of detainees, claimed that another of the Syrians Faraj had ties with was fighting with him at Tora Bora

In other words, many of the claims against Faraj constitute claims made by the two most unreliable Gitmo witnesses—and another who was then on the CIA payroll—implicating others associated with Faraj. Most of those claims were minimized or ignored in Faraj's most recent Administrative Review Board.

Syrian Military Intelligence Evidence

The motion discusses the other problem with his Gitmo file more obliquely, with a reference to Syrian human rights violations, including its dubious allegations that opposition figures are Islamic extremists.

> According to Human Rights Watch, "Syrian security services regularly arrest men suspected of Islamist affiliation or sympathies" and torture them to obtain confessions.
>
> [snip]
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> Given the current violent response by the Syrian government to pro-democracy protesters, the unchallenged narrative depicting Mr. Faraj as a "terrorist" only increases the risk of harm to him and his family.

But the Gitmo file clearly reveals the problem: some of the key allegations against Faraj come from two CIA reports, dating to 2001, recording claims passed on by Syrian Military Intelligence.

> Syrian authorities dismantled terrorist cells in Damascus and Hamah, SY in 2000, arresting fifteen members of the cells while some cell members, including SY-327, escaped. The Syrian Military Intelligence (SMI) stated that those who escaped were believed to have fled to Afghanistan.
>
> [snip]
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> SMI noted the escaped Syrian cell members joined a Syrian camp in Afghanistan run by UBL associate Abu Musab al-Suri, and attended an al-Qaida training camp.

The Syrian intelligence further ties this alleged extremist cell to Abu Zubaydah.

The Gitmo file even suggests that since Faraj and the other Syrians he had ties to expressed fear of being sent back to Syria, they must be terrorists.

> Detainee, SY-327, SY-317, SY-326, and SY-330 have all expressed reservations of being sent back to Syria, citing fear of punishment for their travel to Afghanistan and for being at JTF-GTMO. (Analyst Note: The fear of punishment is more likely due to their terrorist activities within Syria.) [Footnotes removed]

Now, intelligence from the Syrians hasn't always proven terrifically reliable. So you have to ask whether we should be holding people at Gitmo based on what Bashar al-Assad's regime claimed 11 years ago.

But just as importantly, for better or worse,

the American political view on possible Islamists who oppose Assad's government has changed pretty dramatically of late, so much so that we're about to start providing arms to "vetted" members of the Free Syrian Army. Thus, even if the SMI reports were true, what's to say that Faraj isn't the next Abdel Hakim Belhaj, who went from being rendered by us as a terrorist to partnering with us in overthrowing Qaddafi?

Indeed, it's the US embrace of regime change in Syria that seems to best explain this motion—filed over a year after Gitmo file gag orders were first contested. We have held Faraj for years based on the fact that Syria considers him a terrorist, but now we like people Assad considers terrorists. Given the changed political environment, we might well see fit to free Faraj. Except all the other stuff—the kind of allegations made by Abu Zubaydah and Basardah that the government refuses to use in real courts—would make it rather hard for the US to do that.

The government responded to this motion with a sealed filing. So they may well be addressing precisely these issues. Perhaps they're going to stand by their inane policy but make an exception for Faraj?