

# HAS THE GOVERNMENT LEFT MINH QUANG PHAM “LANGUISHING FOREVER”?

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| 05/24/2012 | 2 | SEALED INDICTMENT as to Sealed Defendant 1 (1)-(c)(1)(i) 1, 2, 3, 4, 5, (6)-(c)(1)(i) 06/24/2012)   |
| 05/23/2012 | 1 | SEALED INDICTMENT placed in vault. (encl) (Entered: 05/23/2012)   |
| 05/23/2012 | 2 | SEALED INDICTMENT placed in vault. (encl) (Entered: 05/23/2012)   |
| 06/23/2012 | 4 | Order to Unseal Indictment as to Sealed Defendant 1. (Signed by Magistrate Judge Kevin Michael Fox on 06/23/12)(jst) (Entered: 06/24/2012)              |
| 06/23/2012 |   | INDICTMENT UNSEALED as to Minh Quang Pham. (jst) (Entered: 06/24/2012)  |
| 06/23/2012 |   | Case Designated ECF as to Minh Quang Pham. (jst) (Entered: 06/24/2012)  |
| 06/23/2012 |   | Case as to Minh Quang Pham ASSIGNED to Judge Judge Aileen J. Nathan. Judge Judge Unassigned no longer assigned to the case. (jst) (Entered: 06/24/2012) |

sting comments about FBI interrogation at his hearing last week. First, in response to a Martin Heinrich question, he suggested that the Army Field Manual shouldn't be the interrogation standard for the entire government because the FBI “has its own processes and procedures.”

HEINRICH: Thank you. Do you believe that all agencies of the United States government should be held to the interrogation standards that are laid out in the Army Field Manual as it – as currently required by Executive Order 13491? And do you support efforts to codify those requirements into law?

BRENNAN: The Army Field Manual certainly should govern the U.S. military's detention and interrogation of individuals.

The FBI has its own processes and procedures and laws that govern its activities. So what I wanted to do is to make sure that, you know, appropriate sort of attention is paid to FBI as opposed to the military.

Then, when Brennan was very patiently explaining to Marco Rubio that his ideas about detention and interrogation are erroneous and stupid (my words), he said this about FBI interrogations.

BRENNAN: No. Again, it's tailored to the

circumstances. Sometimes an individual will be Mirandized. Sometimes they will not be Mirandized right away. Mirandizing an individual means only that the information that they give before then cannot be used in Article III court.

But, in fact, the FBI do a great job as far as eliciting information after they're Mirandizing them, and so they can get information as part of that type of negotiation with them, let them know they can in fact languish forever, or we can in fact have a dialogue about it intelligently.

"They can languish forever"? I didn't think the Sixth Amendment had a "languish forever" exception.

But Brennan's apparent belief there is one got me thinking about Minh Quang Pham, whom I wrote about here.

Pham is a Vietnamese immigrant to the UK who traveled to Yemen in December 2010 and went on to help Samir Khan produce Inspire magazine. He was arrested to great fanfare last June, when his May 24 indictment was purportedly unsealed. Though his docket shows no sign of that unsealing; rather, it says the indictment was unsealed two months later. He returned to the UK in December 2011, where he was held in immigration detention. It's unclear whether he's still there – the Brits can hold someone in detention indefinitely and extradition to the US has been taking a lot of time of late – or whether he was moved here either in June when DOJ had a big dog and pony show over his arrest or in August when the docket says his previously unsealed indictment was unsealed. That's the last thing that appears in Pham's docket. I've asked SDNY for a status report but have not yet gotten an answer.

In any case, one of the last people with ties to

the UK or US to spend time with Anwar al-Awlaki  
and, especially, Samir Khan is languishing ...  
somewhere.