

URGENT ACTION

USA MAY APPEAL ORDER TO RELEASE DETAINEE

US authorities are considering whether to appeal a federal court order to immediately release Yemeni national Adnan Farhan Abdul Latif from the US Naval Base at Guantánamo Bay in Cuba where he has been held without charge or trial since January 2002. Their deadline to seek an appeal is 20 September.

On 21 July, Judge Henry Kennedy on the US District Court in Washington, DC, ordered the US administration to “take all necessary and appropriate diplomatic steps to facilitate Latif’s release forthwith”. In his ruling, an unclassified version of which was only made public on 16 August, Judge Kennedy found that the government had failed to demonstrate “by a preponderance of the evidence” that Adnan Farhan Abdul Latif was “part of Al Qaeda or an associated force” and therefore concluded that that his detention was unlawful. Judge Kennedy ordered the Department of Justice to provide him with a “status report” on the case by 20 August.

On 20 August the Department of Justice informed Judge Kennedy that the government “is giving serious consideration to an appeal of the Court’s ruling” and was “taking steps” to obtain a decision from the US Solicitor General as to whether an appeal would be authorized. The Justice Department noted that the government had until 20 September, 60 days from the original order, to seek an appeal.

The fact that the US government appears not to have the evidence to sustain a judicial finding in its favour even under the relatively low burden of proof it has to meet in the Guantánamo habeas corpus cases suggests that it is not in a position to bring Adnan Farhan Abdul Latif to criminal trial where a higher standard of proof is required. Amnesty International repeats its call on the USA to immediately release him unless it promptly charges him with recognizable criminal offences for trial in US federal court.

PLEASE WRITE IMMEDIATELY in English calling on the US authorities to:

- Not to appeal the US District Court order, issued on 21 July, to release Adnan Farhan Abdul Latif;
- Immediately release Adnan Farhan Abdul Latif, unless it promptly charges him for trial in US federal court in accordance with fair trial standards;
- Provide him with access to effective redress and remedy for any human rights violations he has endured during his time held in US custody.

PLEASE SEND APPEALS BEFORE 20 SEPTEMBER 2010 TO:

Barack Obama

The President

The White House

Office of the President

1600 Pennsylvania Avenue NW

Washington DC 20500, USA

Fax: + 1 202 456 2461

Email: www.whitehouse.gov/contact/

Salutation: Dear Mr President

Neal Katyal

Acting Solicitor General

US Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530-0001

USA

Fax: + 1 202 514 9769

Email: askDOJ@usdoj.gov

Salutation: Dear Solicitor General

And copies to:

Attorney General

The Honorable Eric H. Holder

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Washington DC 20530-0001

USA

Fax: + 1 202 514 4507

Email: AskDOJ@usdoj.gov

Salutation : Dear Attorney General

Also send copies to diplomatic representatives accredited to your country. Please check with your section office if sending appeals after the above date. This is the fourth update of UA 125/09. Further information: www.amnesty.org/en/library/info/AMR51/066/2010/en

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ADDITIONAL INFORMATION

Approximately 50 per cent of those who remain detained at Guantánamo are Yemeni nationals. The task force established under President Obama's executive order on ending the Guantánamo detentions approved 36 Yemeni nationals for repatriation. Another 30 were designated for possible future transfer when security conditions were deemed to have been met. Only eight Yemenis have been repatriated so far by the Obama administration. In December 2009 US authorities suspended any transfers of Yemeni nationals from Guantánamo citing security concerns.

On 13 July 2010, another Yemeni national, Mohammed Hassan Mohammed Odaini was repatriated to Yemen following his court ordered release. The US Department of Justice did not appeal against the ruling, but administration officials made it clear that his repatriation was to be seen as an exception and that his release "*should not be viewed as a reflection of the broader policy for other Yemeni detainees*" and that the general suspension of transfers to Yemen from Guantánamo was still in place.

Adnan Farhan Abdul Latif has been held in Guantánamo without charge or trial for more than eight years. Amnesty International issued an urgent action on his case in May 2009 after he made an apparent suicide attempt during a meeting with his lawyer. He had reportedly made several previous suicide attempts, including whilst being held in solitary confinement in Guantánamo's psychiatric ward. In March 2010, he alleged that he had been repeatedly ill-treated by Guantánamo's Immediate Response Force (IRF) and wrote that the circumstances in which he is living "makes death more desirable than living...I find not taste for life, sleep or rest."

Amnesty International has long called upon the USA to immediately release any Guantánamo detainee whom it does not charge and bring to trial in an independent and impartial court in accordance with international fair trial standards. The organization notes that the USA has never shown any intention to prosecute Adnan Farhan Abdul Latif, only to keep him in indefinite detention without charge.

Adnan Latif has asked his lawyer to thank Amnesty International and other organizations for their campaigning efforts on his behalf.

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