

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOSE PADILLA,
Petitioner

-v-

UNITED STATES OF AMERICA,
Respondent

WRIT OF HABEAS CORPUS

Civ. (MBM)

I, DONNA R. NEWMAN, under penalty of perjury affirm as follows:

1. I am duly admitted to practice before the United States District Court of the Southern District of New York.

2. I was assigned by this Court to represent Petitioner Jose Padilla on or about May 15, 2001 pursuant to the Criminal Justice Act. I file this Petition, on behalf of Jose Padilla, pursuant to 28 U.S.C. § 2242, as his attorney and representative.

3. Jose Padilla, an American citizen, was arrested in Chicago, Illinois, at O'Hare Airport on May 8, 2002. [REDACTED]

[REDACTED] Counsel represented Padilla at every court proceeding in this district. Her representation has been continuous and remains up until the present. In connection with her representation of petitioner, counsel has filed motions, visited petitioner regularly at the Metropolitan Detention Center where he was detained until June 9, 2002, consulted with family members and spoke to the government on his behalf

4. On information and belief, on May 9, 2002, the United States Department of Justice, without notice to counsel, [REDACTED]

[REDACTED] turned over the custody of Padilla to the United States Department of Defense ("Defense Department"). On information and belief, President George W. Bush signed an executive order which authorized the detention of Padilla as a "enemy combatant" at a military prison. On information and belief, Padilla is being held in segregation at the high-security Consolidated Naval Brig in Charleston, South Carolina.

5. The government has refused counsel's request for information concerning her client's status. Counsel has had to rely upon news reports for information.

6. The Department of Defense has not responded to counsel's request to visit with her client.

7. As a detainee in a military prison, it is likely Padilla's access to counsel will be strictly restricted.

8. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] According to recent press releases, that informant is Abu Zubaydah. Mr. Zubaydah has been credited with informing the United States of many schemes of al Qaeda, all of which have proven to be not supported or corroborated. The only result of his information has been fear among the citizen of the United States. News commentators have questioned whether Abu Zubaydah has used our own intelligence and our media to put fear and panic into the American

people.

9. [REDACTED]

10. [REDACTED]

[REDACTED] Based on the recent information, there no longer exists probable cause to detain Padilla for any reason.

11. [REDACTED]

12. A grand jury investigating terrorism was in session during the period of time Padilla was detained in New York. Padilla was not charged with an offense, and has not been charged with an offense. On information and belief, the grand jury was not presented with evidence of Padilla's alleged involvement with the "bomb scheme" or asked to return a Bill of Indictment. The evidence linking Padilla to the alleged "dirty bomb" plot is weak at best. There is insufficient evidence for the government to obtain an indictment against Padilla.

13. Congress has not declared war and yet, Padilla is being detained at an "enemy combatant" though Articles of War have been passed. Padilla's detention is pursuant to an executive order. The current regulations governing military tribunals do not apply to citizens. Padilla has not been charged with a crime by the military court.

14. In short, the government's latest maneuver, similar to the government's detention here, is an attempt to detain Padilla indefinitely. Further, similar to the conditions Padilla experienced here, 23 hour lock-down, leg and wrist irons whenever upon any movement from his


cell, no family visits or contact will continue there. However, in addition, he is now foreclosed from meeting with his attorney.

15. Padilla's Constitutional rights have been violated, among the rights which the government has violated are his right to Due Process, his right to be free from unreasonable seizure, his right to counsel, and his right to a grand jury.

16. In the event this Court declines to hear this petition on the ground that it lacks jurisdiction and that jurisdiction lies in another this district, petitioner respectfully requests that the Court transfer this petition to appropriate district court which does have jurisdiction to hear this petition.

Wherefore, Petitioner respectfully requests; this Court to order petitioner immediate return to this Jurisdiction, his release from custody and in the alternative, order, the respondent to permit petitioner access to counsel, including but not limited to telephone calls and personal visits.

Dated: June 11, 2002


Donna R. Newman, 6299
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AFFIRMATION OF MAILING

DONNA R. NEWMAN, attorney for Petitioner Jose Padilla, hereby affirms under the penalty of perjury pursuant to 28 USC § 1746 to the following:

That on the 11th day of June 2002, I served a copy of the within Petition for Habeas Corpus Relief by hand to Assistant United States Attorney, Eric Bruce and filed a copy with the Clerk of the Court for the Southern District of New York, 500 Pearl Street, New York, New York 10007.

Dated: June 11, 2002



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