

## *Judge keeps immigrant in jail for now*

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### **Body**

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An appeals **judge** Thursday blocked the release of an **immigrant** accused of threatening Attorney General Janet Reno. The decision came a day after another **judge** ordered him freed immediately because the government violated his constitutional rights.

Hany Kiareldeen, a 31-year-old resident of New Jersey who moved to the United States from Gaza nine years ago, remained in the Hudson County Correctional Center. He has been detained 19 months.

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On Wednesday, in the first decision in the country to find the government's use of secret evidence against a detained **immigrant** unconstitutional, U.S. District **Judge** William H. Walls ordered Kiareldeen released. The same day, attorneys for the Immigration and Naturalization Service got a temporary stay to **keep** him **in jail**.

On Thursday morning, **Judge** Leonard Garth of the 3rd U.S. Circuit Court of Appeals said the stay will be considered by a three-**judge** appeals panel Tuesday in Philadelphia.

Kiareldeen was arrested on a student visa violation, then denied bail based on secret evidence. The government accused him of meeting with one of the World Trade Center bombers and threatening Reno. During immigration hearings, Kiareldeen successfully rebutted those allegations, an immigration **judge** ruled.

The Board of Immigration Appeals agreed Oct. 15, finding the government's allegations to be unsubstantiated hearsay.

When INS attorneys blocked Kiareldeen's release Wednesday by obtaining a stay, his attorneys pressed his release on constitutional grounds with District **Judge** Walls. In a strongly worded decision Wednesday, Walls wrote that the "INS' actions unconstitutionally damaged Kiareldeen's due process right to confront his accusers."

Walls said the government's unwillingness to provide information not only to the **immigrant**, but also to **judges** in the immigration system denied Kiareldeen his right to a fair hearing.

Walls' decision was hailed as a significant step in the fight against the use of secret evidence being waged by **immigrant** and civil rights groups nationwide and by almost 50 members of Congress who have proposed legislation to ban its use.

About 20 **immigrants**, almost all of them Arab, are being detained on secret evidence alleging they have ties to terrorists. They include Tampa resident Mazen Al-Najjar, who has been held in a Bradenton jail more than two years.

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A ruling in the 3rd Circuit would not be binding on all secret evidence cases, but certainly would be influential, lawyers say.

In the immigration system, Kiareldeen may yet be given bail so he can leave jail. A decision on that issue is pending before the Board of Immigration Appeals. The board's actions are separate from those in federal courts.

## Graphic

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BLACK AND WHITE PHOTO; Hany Kiareldeen

## Classification

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