

## **Appeals Judge Halts Release Of Immigrant**

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### **Body**

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A Federal **appeals** court **judge** today blocked the **release** of a 31-year-old Palestinian **immigrant** who has been detained for 18 months on the basis of classified evidence of alleged links to terrorists. The **judge** also ruled that the case be taken up next week by a three-**judge** panel.

Noting that there were "complex jurisdictional and due process questions" involved in the case, **Judge** Leonard Garth, in the Federal Court of **Appeals** for the Third Circuit, stayed a lower-court order that the **immigrant**, Hany Kiareldeen, be immediately **released** from jail in Hudson County, N.J.

But the **judge** told the parties in the case to file their legal briefs by Tuesday, and said he would recommend "very strongly" that the three-**judge** Court of **Appeals** panel expedite the matter since "there is very questionable legal authority at the moment for holding" Mr. Kiareldeen.

On Wednesday, **Judge** William H. Walls of Federal District Court issued a forceful ruling that Mr. Kiareldeen's detention violated basic due-process rights in the Constitution, and ordered his **release**. But **Judge** Garth blocked that order after the Federal Immigration and Naturalization Service challenged the jurisdiction of the District Court in the case.

In granting a temporary stay of the **release** order, the **appeals judge** said he had planted himself midway between the Government's request for an indefinite stay pending resolution of the entire case and the position of Mr. Kiareldeen's lawyers and **Judge** Walls that he be **released** immediately.

Mr. Kiareldeen remains in the Hudson County Correctional Center. The secret evidence on which he has been detained, according to unclassified and sketchy summaries of Federal Bureau of Investigation reports, alleges that he met with Nidal A. Ayyad, a convicted conspirator in the 1993 World Trade Center bombing, just a week before the bombing, uttered threats against the life of Attorney General Janet Reno and was associated with terrorist groups.

Mr. Kiareldeen, a native of Gaza who has lived in the United States for nine years, has denied the allegations, saying they are the angry concoctions of his vindictive ex-wife.

Today's decision by the **appeals judge** capped a week of rapid developments in the case, which has broken new legal ground on the issue of secret evidence at almost every turn.

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On Monday, a Board of Immigration **Appeals** panel **released** a ruling that rejected the secret evidence against Mr. Kiareldeen as unreliable, upholding an earlier determination by an Immigration Court **judge**. The board ordered the Immigration and Naturalization Service to cease trying to deport Mr. Kiareldeen and to grant him a green card as a resident alien, based largely on his 1997 marriage to an American citizen.

On Wednesday, **Judge** Walls issued his decision in a Federal lawsuit that Mr. Kiareldeen had brought in August. It was the first ruling by a **judge** that the use of secret evidence in detaining an **immigrant** was an unconstitutional violation of due process. Later that day, a different Board of Immigration **Appeals** panel, hearing another facet of the case, ordered the I.N.S. to **release** Mr. Kiareldeen on \$1,500 bond.

Today, Douglas Ginsburg, a Justice Department lawyer in the Office of Immigration Litigation, said the immigration agency had asked the board to stay its bond ruling. A spokesman for the board, Susan Eastwood, said the panel, which is part of the Justice Department's Executive Office of Immigration Review, had yet to rule on the stay request.

Those involved in the case say that if the board denies the request, Mr. Kiareldeen could be **released** regardless of **Judge** Garth's temporary stay, unless the immigration agency **appeals** directly to Attorney General Reno to overturn the decision.

An **appeal** would force Ms. Reno to mediate a long-simmering difference of opinion among four agencies within her department: on one side, the F.B.I. and the immigration service, which say Mr. Kiareldeen is a danger, and on the other side, the Immigration Courts and the Board of Immigration **Appeals**, whose administrative law **judges** have repeatedly rejected that point of view.

Mike Gilhooly, a spokesman for the immigration service, said that if the board rejects the request for the stay of its bond order, the law and regulations are not clear on how much time the I.N.S. will have to make its **appeal** to the Attorney General or how long she will have to consider the **appeal**.

"Until the board decides the issue of the stay we requested, he will remain in our custody," Mr. Gilhooly said.

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