

IRAQI RAPIST HERE FEARS DEPORTATION WILL MEAN EXECUTION;
AS AN ARMY DESERTER, HE COULD FACE A FIRING SQUAD, HIS
ATTORNEY SAYS

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Body

Mohammed Sultan deserted Saddam Hussein's **army** and fled to the United States. He settled in the St. Louis area, where in 1993, he raped a Clayton woman and later pleaded guilty.

On Wednesday, a judge decided not to set aside his conviction or grant him a new trial, moving him closer to **deportation** and an almost sure death in Iraq, his lawyer **said**.

Sultan, 26, **faces execution** by a **firing squad** because he defected from Saddam Hussein's troops, **said** defense lawyer Stormy White.

White plans to file a motion today asking Judge Robert S. Cohen of St. Louis County Circuit Court to reconsider his ruling. If that fails, she **said**, she may take the case to the Missouri Court of Appeals.

In August 1993, Sultan, a factory worker, was dating a Clayton woman and, while in her home, had forcible sex with her, the prosecution contended. The woman's teen-age daughter overheard the conflict and reported it to police.

Sultan pleaded guilty of the rape in November 1993. He had been told he would **face** probation.

At issue, White **says**, is whether Sultan understood English and the American criminal justice system well enough to have realized the impact of his plea.

White contends that had Sultan known he could be **deported**, he would have asked for a trial.

"I don't think Mohammed has truly understood what has been going on," White **said**.

Sultan is in Immigration and Naturalization Service custody in the St. Francois County Jail in Farmington, Mo. He is running out of time and appeals.

The U.S. Board of Immigration Appeals on April 30 dismissed his request to remain in the United State. St. Louis INS officials expect to process his file soon. He could be **deported** in the next few weeks, **said** Chester Moyer, the officer in charge of the St. Louis INS bureau.

"Right now, the order is final, so we can proceed with removal," he **said**.

St. Louis County court records show that Sultan, whose primary language is Arabic, was taking English classes at the time he pleaded guilty in November 1993.

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Sultan testified then that he had been in the United States about a year. He was sentenced to five years' probation and was instructed to enroll in sex-offender counseling and to not contact the victim. Records state that he has not violated probation.

In the following years, however, the ramifications of Sultan's plea became more severe. INS officers took him into custody in January 1997, and he has been in the jail in Farmington since.

Cohen wrote in his opinion that possible deportation is not grounds to reopen the criminal case, noting that files have been closed, evidence may have been lost and witnesses may have moved.

White said she had not expected to get the conviction set aside, but she had hoped to get a new trial because Sultan didn't understand the proceedings and wasn't told by his former defense lawyer, a public defender, of the deportation possibility.

A court transcript shows Sultan spoke in broken English on several occasions and misunderstood what prison meant.

During two sequences, White said, it is obvious Sultan did not comprehend the judge's questions:

Judge: "How did you get here?"

Sultan: "I make the government take me through - I have - I come to the United States, I make the government - they accept."

Judge: "You are going to be the guest of our prison. Do you like being in prison?"

Sultan: "Yes, I do."

Judge: "What is prison?"

Sultan: "You mean do I like the United States?"

Judge: "No, do you like being in prison in the United States? Do you like being in jail?"

Sultan: "No, no."

Sultan, when asked by the judge if he understood English, replied, "Yes, some." Five times Sultan answered the judge with, "I don't understand."

Sultan's original defense lawyer, David Kenyon, had asked for an interpreter for the hearing but one never showed up. Interpreters are not required by law, White said.

"There can be only one reason why his attorney wanted an interpreter," White argued in the court documents. "He had doubts the defendant understood English sufficiently to understand what was going on."

White also pointed out that at a May hearing, Kenyon testified that he had no idea his client would be deported and so had not advised Sultan of it. But that statement contradicts one Kenyon made in court in November 1993, White said. Kenyon, now a public defender lawyer who handles death-penalty cases, could not be reached Wednesday.

Cohen ruled that Sultan and Kenyon appeared to know in 1993 that deportation could result from the guilty plea. The transcript also details instances in which the judge explained the pleading process to Sultan and told him to raise questions if he had them.

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"There is no reason to conclude that (Sultan's) attorney failed to meet his professional responsibility," Cohen added.

The court was required by law to advise Sultan of the direct impact of pleading guilty but not of an indirect impact, such as deportation, Cohen said.

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