

By Ben Fox

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The U.S. government has dropped its opposition to releasing a Guantanamo Bay prisoner with severe mental and physical illnesses, apparently conceding the argument that he is far too sick to keep locked up at the U.S. base in Cuba.

In court papers filed late Wednesday, lawyers for the Justice Department said the government would not object to a judge issuing a release order for Ibrahim Idris. The native of Sudan has been held for more than 11 years as an enemy combatant despite being diagnosed as mentally ill soon after his arrival at Guantanamo.

The court filing was couched in careful language that avoided saying why the government would no longer resist legal efforts to release Idris. It also stressed that the U.S. was not acknowledging it lacks the authority or evidence to hold him. Nevertheless, it was a rare and significant victory for a Guantanamo prisoner.

A federal judge must still issue the order before Idris can be released after a 30-day notification period for Congress. The government has not said where Idris, who suffers from schizophrenia and diabetes among other ailments, will go, but it is likely he will return to his native Sudan.

Attorney Jennifer Cowan welcomed the government's action, though she was disappointed it hadn't come sooner.

"I don't know if this is an individual decision or signals something broader," the New York-based lawyer said. "I'm just grateful that they are not contesting it."

There are 164 prisoners still held at Guantanamo, most without charge, and many have also filed petitions for habeas corpus seeking a judge's order granting their release.

Idris, however, presented an unusual set of circumstances.

He was captured by Pakistani soldiers and turned over to U.S. authorities, who accused him of being an al-Qaida fighter and courier. Within weeks of his arrival at the U.S. base in Cuba in January 2002, military doctors diagnosed him as mentally ill and he has spent much of the intervening years in the prison's psychiatric ward.

Doctors who have examined Idris, who is about 49, have said he has auditory hallucinations, speaks incoherently and talks to himself. He has been known to wear his underwear on his head and to be catatonic in meetings with lawyers and doctors. He is also obese, at about 250 pounds, and suffers from circulatory and other problems in addition to diabetes, according to court records.

Lawyers filed a petition for release in August 2005, then in June they argued that the U.S. no longer had the authority to hold someone who was physically incapable of posing a threat. The Justice Department motion filed Wednesday was the response to that argument and essentially removes the barrier to his freedom.

"He should be home with his family," Cowan said.