

By Andy Worthington

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In an attempt to raise awareness of the importance of the rulings being made in US courts on the habeas corpus petitions of the prisoners held at Guantánamo (as authorized by [a significant Supreme Court ruling](#) in June 2008), I'm devoting most of my work this week to articles covering the 47 cases decided to date (34 of which have been won by the prisoners), as a series entitled, "Guantánamo Habeas Week."

Although I have covered the 47 cases in detail over the last 19 months, I had not, until now, followed the example of [the Center for Constitutional Rights](#), the [Washington Independent](#) and the

[Miami Herald](#)

, who have all produced "Habeas Corpus Scorecards." As a result,

[this series kicks off with my own list](#)

, providing links to my analyses of the rulings, to the judges' own unclassified opinions, and, where relevant, to my articles covering the prisoners' release from Guantánamo, and progress reports on a handful of appeals.

Throughout the week, following an article examining the case of [Yasin Ismail](#), a Yemeni who recently lost his habeas petition (whose publication slightly preempted the start of this series), I'll be publishing two articles analyzing the unclassified opinions in the cases of

[Mohamedou Ould Salahi](#)

(aka Slahi), a Mauritanian who recently won his habeas petition despite being considered one of the most significant prisoners in Guantánamo, and

[Mukhtar al-Warafi](#)

, a Yemeni who lost his habeas petition (I wrote about the initial rulings

[here](#)

). I also intend to analyze the judge's opinions in the cases of four more Yemenis:

[Saeed Hatim](#)

, who won his habeas petition in December last year, Uthman Abdul Rahim Mohammed

Uthman, who won his habeas petition in February, and Suleiman al-Nahdi and Fahmi al-Assani,

who lost their habeas petitions in February (all initially discussed

[here](#)

). If time allows, I will also examine a few other opinions that were not available when I wrote articles based on the judges' verdicts.

I remain impressed that the judges involved have ruled in the prisoners' favor in 34 of the 47 cases (that's 72 percent of the total), especially as they have exposed, in the most objective manner available, the lack of oversight in the Justice Department (first under Bush and now under Obama) regarding pursuing cases that should have been dropped, as well as persistent obstruction by the Justice Department when it comes to providing material necessary for the prisoners' defense.

Moreover, the judges' rulings have also revealed the alarming flimsiness of most of the material presented by the government as evidence. Primarily, the judges have exposed that the government has been relying, to an extraordinary extent, on confessions extracted through the torture or coercion of the prisoners themselves, or through the torture, coercion or bribery of other prisoners, either in Guantánamo, the CIA's secret prisons, or proxy prisons run on behalf of the CIA in other countries.

Sadly, these rulings have not, for the most part, been covered by the mainstream media with anything like the dedication that they deserve. This is distressing, because the rulings are, to be frank, the single most important collection of documents analyzing the failures of the Bush administration's "War on Terror" detention policies — and Obama's refusal, or inability to thoroughly repudiate them.

As part of the judges' revelations that the majority of the supposed evidence is actually based on the torture, coercive interrogations or voluntary "confessions" of the prisoners (in exchange for better conditions of confinement), what has also emerged, to reinforce research undertaken by [myself](#) and by staff and students at the [Seton Hall Law School](#), is that the majority of the prisoners were not, for the most part, seized by US forces "on the battlefield," as senior Bush administration officials claimed, but were, instead, mainly rounded up by the US military's allies in Afghanistan and Pakistan, at a time when bounty payments were widespread, and were never adequately screened at the time of capture to determine whether or not they had ever been engaged in any kind of combat.

Just as troubling, however, are the justifications for continuing to hold the majority of the prisoners who lost their habeas petitions, as they reveal that the basis for doing so — the [Authorization for Use of Military Force](#)

, passed by Congress in the wake of the 9/11 attacks and maintained as a justification by President Obama — was, and is a deeply flawed document, which fails to distinguish between a small group of genuine terrorists (al-Qaeda) and a considerably larger group of men (and boys) associated with the Taliban. The result is that men continue to be consigned to indefinite detention, on an apparently sound legal basis, even though they were only peripherally involved with the military conflict in Afghanistan to secure the fall of the Taliban, and should, all along, have been held (if at all) as prisoners of war, and protected by the Geneva Conventions.

And in the meantime, of course, the real terror suspects — [35 of those held](#) , according to the Obama administration's interagency Task Force, which reviewed their cases last year — await either civilian court trials (

[Eric Holder's preference](#)

) or trials by Military Commission (following one of Obama's

[weakest concessions](#)

to Congressional cooperation), and 47 others, judged by the Task Force as prisoners who should continue to be held indefinitely, because of fundamental weaknesses in the supposed evidence against them, must wait and see if the courts agree with the government's assessment when their own habeas petitions are examined by District Court judges.