

Sunday, June 24, 2007

Military lawyer courageously reveals sham system for classifying enemy combatants in Guantanamo.

This photo at Guantanamo's Camp Delta prison is the least whitewashed of those at this Defense Department Guantanamo photo webpage. Enlarge this photo only on an empty stomach. One day, a public defender lawyer told me he wanted to keep his job rather than make waves. Much was available to speak out about, with the unreasonably high caseloads, insufficient support staff help, and numerous judges who felt public defender lawyers -- as opposed to private practitioners -- should be at their beck and call, and the list goes on, including issues affecting all retained and public defender criminal defense lawyers and their clients. Every practicing lawyer faces the possibility one day -- sometimes at great personal, career and financial risk -- of choosing whether to blow the whistle pursuant to governing ethics rules, personal ethics rules, or both, or staying silent in contravention of such rules. Sadly, too many lawyers remain silent when it is time to speak out. Happily, the stories are many of public defender lawyers, private criminal defense lawyers, and even prosecutors who stick their necks out to do what is right. Praised be military lawyer Stephen Abraham -- now a lieutenant colonel in the Army Reserves -- for risking his military career by courageously stepping forward and providing this affidavit revealing that the Guantanamo enemy combatant review process was a sham during the period he was involved with such reviews from September 11, 2004 to March 9, 2005. (To see the affidavit, scroll to page eight of this SCOTUSblog-posted Reply to Opposition to the Petition for a Rehearing filed by the petitioners in *Khaled A.F. Al Odah, et al. v. U.S.*, U.S. Supreme Court Petition No. 06-1196.) At one point, Mr. Abraham was assigned to a Combatant Status Review Tribunal. However, after his panel refused to classify a Guantanamo inmate as an enemy combatant, he was not assigned to serve on another Combatant Status Review Tribunal; of course not, seeing that he previously refused to rubber-stamp an enemy combatant classification request. This story is covered by the Washington Post and ScotusBlog. On the one hand, Mr. Abraham's affidavit only covers a time period that is now over two years old. On the other hand, it appears that most military lawyers are too fearful to step forward with information about the enemy combatant review process. They should step forward, now. Jon Katz.

Posted by Jon Katz in Constitutional Law at 00:15