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Democracy Dies in Darkness

Stalemate Lengthens Brothers' Detention

Citing Opposition To U.S. Restrictions, Four Refuse Release

By Darryl Fears
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CORRECTION

A March 5 article on the refusal of four detained Iranian brothers to accept conditions for their release misstated the legal basis for their detention. They were held under provisions of immigration law, not the USA Patriot Act. (Published 03/19/05).

They waited more than a thousand days for good news, and on a chilly February afternoon it came: A guard at the Terminal Island immigration jail walked into the dorm room of the four Mirmehdi brothers and said they were being released.

It seemed that their run as four of the longest-held detainees since the Sept. 11, 2001, terrorist attacks was ending. The Iranian-born brothers -- Mostafa, 45, Mojtaba, 41, Mohsen, 37, and Mohammed, 34 -- hustled downstairs to a processing room at the jail, near Long Beach, Calif. Authorities handed them the clothes they had been wearing when they were arrested, in October 2001, on suspicion of being members of an Iranian opposition group the State Department lists as a terrorist organization. Later, authorities handed them something else: a list of 13 conditions to sign before their release.

As they read the conditions, Mohsen Mirmehdi said, the light left their eyes. Considering some of them too strict, the brothers refused to sign -- and went back to jail.

But U.S. Immigration and Customs Enforcement (ICE) has matched the brothers' determination with its own, in a case that underscores the government's powers of detention even after a Supreme Court ruling that immigrants in the Mirmehdis' circumstances cannot be held indefinitely.

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ICE began reviewing the brothers' objections this week. Meanwhile, their detention has stretched to 41 months.

Exactly how they arrived at this pass takes some explaining.

Their case dates to 1999, when the government found that they had filed false applications for asylum here, but released them on bond while considering what to do with them. In October 2001, they were detained without bail under the USA Patriot Act because of what authorities said was "new evidence" that they were members of the Mujaheddin-e Khalq (MEK), which seeks to overthrow the Iranian government.

An immigration judge accepted the evidence the next year, but in August 2004 an appeals board overturned that ruling, saying the government's evidence was questionable and the brothers represented no threat to U.S. security. That ruling undercut the reason for holding the brothers under the Patriot Act.

Still, the Mirmehdis could be deported for immigration infractions, ICE spokeswoman Virginia Kice said.

But not to Iran. Immigration judges ruled that they could not be deported there because of the U.S. government's allegations involving them and MEK make it likely that they would face persecution and perhaps torture. So ICE began seeking a third country to take them.

Hence the standoff. As the result of a 2001 Supreme Court ruling, ICE had six months after the Mirmehdis were found not to be a security threat to deport or release them. Facing a Feb. 20 deadline, the agency invoked a rule that allows it to attach conditions to any release.

"It's really absurd," said Marc Van Der Hout, lead attorney for the brothers. "We have an agency that has run amok. It took several years and other courts intervening to find there is no basis to these allegations" concerning the Mirmehdis and the MEK.

Kice said ICE is adamant about enforcing the conditions. "We want to ensure that these brothers continue to be available, should we get permission from a third country to remove them," she said.

Among the conditions the brothers found objectionable were provisions that would bar them from venturing more than 30 miles from their San Fernando Valley home without written permission, changing their address without approval, and contacting anyone with a criminal record or suspicious background.

"How can we know who that is?" Mohsen Mirmehdi asked during a telephone interview from jail. "We cannot do our real estate business. We cannot travel to downtown Los Angeles. We have to always look over the shoulder. They can bring us back here anytime for anything. This is not freedom. They were containing us in a 30-mile prison."

It was clear that officials wanted the brothers to sign off on the conditions, Mohsen Mirmehdi said. "Our deportation officer . . . shouted, 'We are being nice to you guys. Now you are blowing your chance.' " Another official, he said, told them, "You could be having lobster tonight instead of peanut butter and jelly."

But Mohsen Mirmehdi, who had slipped on the brown shirt and gray pants he was wearing when he was arrested in October 2001, slowly took them off and put back on his prison blues. His brothers followed suit.

The Mirmehdis' sojourn in the United States began in 1978, when Mostafa, who goes by the name Michael, arrived as a student. He said he studied mechanical nuclear engineering at several universities, including the University of Oklahoma at Norman. His brothers joined him in the 1990s, and they attended protests against the Iranian government in Washington and Denver.

Their trouble started when they waited until the last possible moment before a 1998 deadline for Iranians to file for political asylum here. The brothers turned to attorney Bahram "Ben" Tabatabai, a U.S. citizen of Iranian descent, who advised them to sign a blank application, which he filled in with misspelled names and false information.

In November 1999, Tabatabai was arrested, accused of being part of a forgery ring that helped Iranians acquire visas and asylum in the United States. A U.S. attorney said one of his more important clients was the MEK.

The FBI said Tabatabai confessed that the Mirmehdis were connected to the MEK. He later recanted, saying agents pressured him into saying making the allegation.

The brothers had a lengthy stay in jail, but after testifying about their dealings with Tabatabai they were released on bond.

They were arrested again in October 2001, after the FBI raided an MEK safe house and found their names on a sheet of paper. Government officials publicized the alleged link at a news conference.

The MEK, which fought on Iraq's side in the eight-year Iran-Iraq war, was designated a terrorist organization by the State Department in October 1997. Several members of Congress have tried to have the MEK removed from the list. Rep. Gary L. Ackerman (D-N.Y.) spoke at an MEK rally the brothers are accused of attending in June 1997, and former attorney general John D. Ashcroft expressed support for the organization in 2000, while he was a senator.

Before leaving Iran, Mojtaba Mirmehdi said, he was arrested and tortured on suspicion that he belonged to MEK. "I said nothing. I said I was innocent, and they let me go," he said. Mohsen Mirmehdi said four cousins -- two men and two women -- were imprisoned and killed on the suspicion that they were part of the group.

"If I had gone to a rally in Iran, my native country, and went to jail, I'm sure they would torture me," he said.

Then he added: "But they wouldn't hold me this long. It's very saddening."

Now the brothers await word from ICE. They have spent about $150,000 on attorneys' fees, exhausting their savings. They sleep on bunk beds in a pod of about 40 people, and sit in front of the television to help pass time.

"During the day, I do some cleanup," Mohsen Mirmehdi said. "I get $1 a day."

He said he and his brothers have no love for the Iranian government but are not terrorists.

The federal government expressed doubt in their court hearings. "Could you tell us why, when you were in the United States, why did you participate in political demonstrations?" a judge asked Mohsen Mirmehdi, according to a transcript.

"I wanted to raise up the voice of the Iranian people in the world against the regime, and also I wanted to share the objection I have to the regime with the other people," he said.

When he leaves prison, Mohsen Mirmehdi said, he wants to speak out again.

"It is my right," he said.

The Iranian-born Mirmehdi brothers, who have been held since October 2001, are taken back to the detention facility at the San Pedro Federal Processing Center in California. MOHAMMED MIRMEHDI

MOJTABA MIRMEHDI

MOHSEN MIRMEHDI

MOSTAFA MIRMEHDI