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The Geography of Justice Wormholes: Dilemmas from Property and Criminal Law by Hari Osofsky
Moderation of the Jose Padilla Case

Summary

Jose Padilla is a United States citizen of Puerto Rican descent that was arrested on US soil and classified as an enemy combatant post 9-1-1. Being classified as an enemy combatant gives the government the authority to hold the accused indefinitely, leaving one in an open ended status that does not require a time line to have charges named or a trial held in the US criminal court system. The nature of Padilla's arrest and the fact that he is a US citizen that converted to Islam, was suspected of terrorist activities and was arrested on US soil, created a "Justice Wormhole."

Padilla's conversion spurred him to travel to Egypt, Afghanistan, and Pakistan. While in Pakistan, he requested a new passport at the Pakistan embassy, which raised a red flag in the US. Upon re-entering the US in May of 2002, he was promptly arrested and "pulled out of the criminal justice system's protections," (Osofsky 2007) which are guaranteed to every US citizen as part of the Constitution.

Throughout the process, the Justice Department, the Court System and the lack of legislation were in conflict with one another. The decisions or lack there of in regards to jurisdiction and classification placed Padilla's in this "Justice Wormhole." Padilla remained in limbo from May 2002 to November of 2005, where he was finally indicted by a grand jury in Miami that superseded his enemy combatant status, allowing him to become eligible for trial in the US and has since been tried and convicted on terrorist charges.

Class Main Points

-Padilla being denied his rights as a US citizen is alarming. Denial of due process being taken away hit home in the fact that this could happen to any one of us.

-No matter what the situation, the class agrees that there must be transparency and/or a level of fairness even to both US citizens and those who are not and trials must be open. There was a point brought up about opening up trials and the need to consider information that is relative to national security. This is a valid point, but should not negate all rights of the accused. Each case must be evaluated accordingly and the rights of those accused preserved as much as possible.

-Wormhole was created by:

Padilla holding US citizenship and converting to Islam- the perceptions of Padilla are influenced by his conversion and his trip to Egypt, Afghanistan and Pakistan in a time of heightened terrorism (post 9-1-1). This may have initially tainted/hindered calls for justice.

His arrest on US soil but being classified as an enemy combatant allowed him to be moved from jurisdiction to jurisdiction and remain uncharged.

The lack of contradictory decisions by the courts and the lack there of allotted no rights to Padilla and left his fate in the hands of a justice system who did not view his rights as a priority and took advantages of the "Justice Wormhole" loophole.

-Labels served as powerful tools in using the judicial system to the advantage of the state. Padilla's label as a US citizen, as an Islamist, a terrorist, an enemy combatant, a Puerto Rican and a criminal

defendant defined how people and the justice system viewed his right to access due process.