

Exam Number _____

FINAL EXAMINATION
IN
TERRORISM AND THE LAW

December 15, 2006

9:00-11:00 A.M.

Professor Shanor

This is a **two hour exam**. It contains **two fact patterns** with questions related to each fact pattern and **one general question**.

This exam is **open book** and may be taken only in **rooms assigned** for taking the exam.

The exam is governed by the **Honor Code**.

If you believe additional information is needed to analyze any question, state what you think is needed and why it makes a difference.

Read, think, and organize before you write or type your answers!

PLACE YOUR EXAM NUMBER ON EACH PAGE OF YOUR ANSWERS AND ON THE COVER OF THIS EXAM.

YOU MUST RETURN BOTH THE EXAM AND YOUR ANSWERS TO RECEIVE CREDIT FOR THE COURSE.

GOOD LUCK AND HAVE A WONDERFUL HOLIDAY!

I. (40 points total)

The Midwest Register
1/23/07

Algerian Terrorist Detained at Des Moines Airport

Federal officials detained James Torqada as he walked off his plane and into the terminal at Des Moines International Airport yesterday. A spokesman for the Federal Bureau of Investigation announced that Mr. Torqada is being held as an enemy combatant in an undisclosed location.

Mr. Torqada, an Algerian citizen, is a high-ranking member of Progress Through Violence (PTV), a regional group known for its brutal tactics, including suicide bombings, hostage-taking and public executions in Iraq. Mr. Torqada has publicly taken credit for at least one attack on U.S. troops in which several Marines were killed by a suicide bomber and for the execution of Harlan Jones, a contractor in Iraq kidnapped and killed by PTV. Late last week, the FBI learned that Mr. Torqada was on his way to Des Moines to visit his brother, Asam Torqada, whom they also arrested yesterday. Asam is a naturalized U.S. citizen and a member of a local mosque in Des Moines, where he often solicits and collects funds and in-kind donations for various groups, including his brother's organization.

Answer the questions below:

1. What recourse does the U.S. have against James Torqada for his role in the attack on U.S. troops?
2. What steps can Mr. Torqada take upon finding himself in U.S. custody?
3. What charges will Asam Torqada face? What do prosecutors need to prove in order to convict him?
4. The day after this story ran, Bekka Jones, Harlan Jones' sister, read the story and learned that two of the men responsible for her brother's violent death in Iraq are now in U.S. custody. She immediately called her lawyer and asked her what she could do to seek justice for her brother's death. What should the lawyer tell her?

II. (30 points total)

The Center for Constitutional Rights (CCR) represents 7 Yemenis held at Guantanamo Bay who claim they were seriously mistreated. These prisoners allege that they were subjected to “waterboarding” (simulated drowning), were sexually humiliated, were threatened with attack by vicious dogs, and suffered religious indignities like having their copies of the Koran spat upon by guards. CCR has an affidavit by the demoted former commander at Guantanamo Bay saying that former Defense Secretary Donald Rumsfeld authorized prisoner treatment of the foregoing types as “interrogation aids” in memos issued during the first year following the September 11, 2001 attacks. Recently, several U.S. soldiers who served as guards at Guantanamo have been convicted in courts-martial under the UCMJ of abusing prisoners.

CCR has asked your opinion on the following:

1. Could Rumsfeld be prosecuted successfully in federal court under the laws of the United States?
2. Could Rumsfeld be found guilty under international law in the courts of Germany? Assume Germany has a statute according universal criminal jurisdiction over violations of the Geneva Conventions, the European Convention on Human Rights, and the conventions on torture and genocide.
3. Could the families of the prisoners, including two who died in custody, successfully sue the United States in the US courts for civil compensation?

III. (20 points)

Discuss (1) how the Military Commissions Act of 2006 (MCA) “reversed” the Supreme Court’s decision in *Hamdan* and (2) how the Supreme Court will likely respond to appropriate cases challenging provisions of the MCA which “reversed” *Hamdan*.