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Analysis: First Kuwaiti detainee goes home

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The first of 12 Kuwaiti detainees kept for more than three years at the U.S. Naval base at Guantanamo Bay, Cuba, has been returned to his country where he was being questioned by security officials.

Nasser al-Mutairi, 28, arrived just after midnight on a Kuwaiti government jet, Kahlid al-Odah told United Press International in a telephone interview. Al-Odah, the chairman of a group representing the detainees' families, and al-Mutairi's brother Naif met him.

"He was happy but exhausted," said al-Odah, adding that he was lucid, though weak and somewhat unsteady on his feet. "He was so skinny, when I hugged him, I could count his ribs."

After a brief reunion with his brother, al-Mutairi was escorted away by security officials. "They are questioning him," said al-Odah. "They want to clear up why he was (in Afghanistan) and what he was doing there.

"They also want to know what's happening at Guantanamo Bay."

Some 550 detainees, most captured in Afghanistan during the U.S. military action to overthrow the Islamic extremist Taliban regime there, are being held in a specially built prison at the naval base. Defined by the U.S. government as "unlawful combatants," the men have been held without charge or trial and have been interrogated by the U.S. military. In recent weeks, documents unearthed by the ACLU revealed that FBI agents at the base had complained about mistreatment of detainees. The U.S. military says it is investigating the allegations.

A statement from the Pentagon Sunday said al-Mutairi was being transferred to Kuwait "for prosecution," but his U.S. lawyer, Tom Wilner, told UPI, he doubted that any further action would be taken. "I'm confident that if there was any information to charge him with, they'd have tried him (in Guantanamo)," said Wilner.

The United States had planned to try some of the detainees before military commissions, but the process collapsed last November after a federal court ruled that the commissions did not meet the requirements of the Geneva Conventions or basic guarantees for fair trials.

Under Kuwaiti law, al-Odah said, authorities could hold someone for four days, but must then release or charge them. "We are trying to find out what the view of the (Kuwaiti) government is on this case," he said.

Al-Odah said that the release was the result of lobbying by the families and pressure from the Kuwaiti government, which has sent two security delegations to Guantanamo, to ascertain the facts about the 12 detainees from their country.

He added that he was "very optimistic" that the rest of the men would be released soon.

Al-Odah's group, the Kuwaiti Families Committee, say that the detainees are innocent of any wrongdoing, and have called for them to be charged or released.

Al-Odah said al-Mutairi had been doing missionary work for the non-political Tableeghi -- "teaching the Koran and Islamic principles" -- with refugee children on the Afghan-Pakistan border when he was captured.

"We don't know exactly what happened to him," he said, but added that Afghan tribal factions had seized many foreigners in the area, because the U.S. military was paying a bounty to anyone who brought them foreign fighters.

Al-Odah, whose own son, Fawi, is being held, said that the detainees had been doing humanitarian work in the area. "There are a lot of refugees there," he said.

"These men would welcome their day in court," said Wilner. "They want the opportunity to hear the case against them and to defend themselves."

Wilner said that a court case seeking the release of the 12 Kuwaitis, launched in May 2002, was continuing in U.S. District Court in Washington. The U.S. government said that detainees at Guantanamo, as foreigners outside of the United States, had no right of access to the courts. But last year the Supreme Court ruled that they were entitled to due process.

"After the Supreme Court ruling, the government tried to argue that, even though (the detainees) were entitled to court hearings, they couldn't have lawyers," said Wilner. "We beat them on that."

Now, he said, the government has asked to have the case dismissed on essentially the same grounds as before, a move he called "a disgraceful delaying tactic."

Wilner said he had been to Guantanamo last week and interviewed all 12 of the men. The contents of the interviews were classified, he said, adding that he had to obtain a security clearance in order to represent them. He said he was seeking a clearance for an administrative support worker, and that some lawyers with clients at the base were still awaiting theirs. "The whole process is very time consuming," he said.

Wilner told UPI that he planned this week to ask the court to order the government to treat the men humanely. "We have also filed for discovery on the documentation on them," he said, adding that they hoped to find out where, when and how the men came to be in U.S. military custody, and get details -- including photographs and videos -- of their interrogation.