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Australian's Long Path in U.S. Antiterrorism Maze

RAYMOND BONNER
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SYDNEY, Australia - For more than three years, Mamdouh Habib, an Egyptian-born Australian with a volatile temper and an intense devotion to radical Islam, was in American custody, transported from Pakistan to Afghanistan to Egypt to the prison at Guantánamo Bay.

The Americans designated him an "enemy combatant," saying he had admitted to having prior knowledge of the Sept. 11 attacks and to having trained some of the hijackers. He said he confessed while in Egypt only to stop the waves of torture.

But Mr. Habib's journey came to an unexpected end on Friday afternoon at Sydney's international airport when he stepped off a white executive jet and was set free.

His release was accompanied by little public explanation. But behind the turn of events, according to interviews here and the United States, were high-level negotiations between allies.

Australian officials say Mr. Habib, who is in his late 40's and the father of four, attended a Qaeda camp in Afghanistan; he was apprehended in Pakistan shortly after the Sept. 11 attacks. As he was held, like hundreds of other terror suspects, without a formal hearing, the Australians pressed American officials to charge him with a crime or release him.

In June, Australian officials said, President Bush assured Prime Minister John Howard that Mr. Habib would be formally charged. Then, earlier this month, after Mr. Habib had spent 40 months in prison, word came that there would be no charges. "They weren't confident the charges would stick," said an Australian official involved in the negotiations.

Even then, the Australian officials said, the Americans did not want to release Mr. Habib, knowing that without criminal charges, he would be a free man in Australia. But an announcement that four Britons were being released from Guantánamo set off a flurry of diplomatic activity, said another Australian official involved in the case.

"They had no option," the official said. "They couldn't do what they had done with the Brits and not do the same for us."

The United States has returned dozens of Guantánamo detainees to their home countries. But what distinguishes Mr. Habib's case are the severity of the accusations on both sides - the Americans' allegations of his connection to Sept. 11, and his charges, in legal papers made public earlier this month, that he was subjected to a process called "rendition," under which the United States sent him to Egypt. There, he says, he was tortured with beatings and electric shocks, and hung from the walls by hooks.

In a statement, the Department of Defense said, "There is no evidence that any Australian detainee in D.o.D. custody was tortured or abused." United States officials have acknowledged using renditions but say they do not condone torture.

Australian officials confirmed that Mr. Habib was indeed taken to Egypt, and added that when they interviewed him at Guantánamo, he told them of being beaten and given electric shocks in Egypt.

In separate interviews, three senior Australian officials agreed to discuss the case on condition of anonymity, in part because they were discussing intelligence material and sensitive diplomatic negotiations. Moreover, some of what they said went beyond what has been asserted publicly.

For instance, the Australians said there was no evidence that Mr. Habib trained any of the hijackers or even that he was an enemy combatant, since he was not in Afghanistan when American troops arrived. In addition, the government said, Mr. Habib's activities did not break any Australian laws in effect before Sept. 11. (Antiterror laws were toughened after the attacks.)

Another Australian, David Hicks, captured in Afghanistan in late 2001, remains at Guantánamo, and has been charged.

Mr. Habib immigrated to Australia from Egypt in 1982, and became a citizen a few years later. He married a Lebanese woman, Maha, and they started a family, according to friends. "He was very successful, very happy with his family, they had a nice house," said a sister, Sally. "I don't know what happened."

Mr. Habib's foray into radical Islam appears to have begun in 1991, when he took his family to New York, where two sisters lived. He ran into two friends from Cairo who were followers of Sheik Omar Abdel Rahman, a blind Egyptian cleric. At their urging, Mr. Habib went to the federal courthouse to protest the prosecution of El Sayyid A. Nosair, who was on trial for murdering Rabbi Meir Kahane, according to a profile of Mr. Habib last July on "Four Corners," an Australian television program.

Back home, Mr. Habib held rallies in 1995 for Sheik Abdel Rahman, who was then on trial on charges of conspiring to blow up New York City landmarks, charges on which he was convicted and remains in jail.

Mr. Habib also had a cleaning company, 4M&A Cleaning Services, that won a contract to clean military housing. But after the contract was ended because of complaints about his work, Mr. Habib began to harass tenants and employees of the military housing authority, according to court documents. The agency sought a restraining order. At a hearing in 1995, Mr. Habib's psychiatrist testified that he was being treated for depression with Prozac.

Friends say he was also becoming increasingly radical, railing that he was being persecuted for being a Muslim and expressing approval of the bombing of American embassies in Africa in 1998. In the late 1990's he bought a coffee shop, the Alexandria, on Haldon Street, a polyglot immigrant bazaar in Lakemba, a Sydney suburb. But in March 2000 he headed to Pakistan, telling friends he wanted to raise his family in an Islamic country. He returned home sporting an Osama bin Laden T-shirt, said Ibrahim Fraser, who often talked with Mr. Habib at the Alexandria. And a year later, Mr. Habib sold his coffee shop and set out again, telling his wife and friends he was looking for a religious school for his children.

According to Australian intelligence, he went to Afghanistan and entered Qaeda camps. He completed basic training and an advanced course, including surveillance of urban public buildings, a senior Australian official said.

A few days before Sept. 11, 2001, Mr. Habib called his wife from Pakistan, Australian officials said this week. (Her phone was being monitored.) In the conversation, they said, Mr. Habib said something big was going to happen in America in the next few days.

But this phone call, which has not previously been reported, does not support the allegation that Mr. Habib had advance knowledge that planes were going to be flown into the World Trade Center or the Pentagon, another Australian official cautioned. Just about everyone in Kandahar and the Qaeda camps knew that something big was coming, he said. "There was a buzz."

In early October, Mr. Habib was heading to Karachi to catch a flight home when his bus was stopped by Pakistani police officers, who seized two Germans wanted in Germany in connection with a terrorism investigation. When Mr. Habib protested to the officers about the arrests, they took him away, too. Within weeks, the Pakistanis turned Mr. Habib over to the Americans, but not before they, too, tortured him, Mr. Habib told his lawyer, Joseph Margulies.

One form of torture in Pakistan, Mr. Habib said, involved hanging him on hooks with his feet on the side of a large drum. Wires from the drum ran to what seemed to be a battery. When the interrogators were not satisfied with his answers, they threw a switch and a jolt of electricity shot through the drum, causing it to rotate and leaving him "dancing" on it. When he slipped off, he said, he was left hanging.

In an affidavit filed in November 2004 in federal court in Washington, Mr. Margulies said Mr. Habib was then interrogated by two women; both spoke English and one spoke Arabic as well. According to the affidavit, which was based on statements by Mr. Habib, a heavy-set English-speaking man in his mid-50's was present throughout.

On the way to an airfield, Mr. Habib told his lawyer, he struggled with his guards and was subdued by several men wearing black T-shirts and gray or khaki pants. One had an American flag tattooed on his wrist. "The flagpole looked like a finger, with the flag unfurled to the right of the finger," Mr. Margulies wrote. Another man had a tattoo of a woman on the inside of his forearm, and a third had a cross on his upper arm.

At one point, while Mr. Habib lay on the ground handcuffed, one man put his foot on Mr. Habib's neck and posed while another man took pictures, according to the affidavit; the man said he was going to send one picture to his girlfriend and another to his sister. While another person took a video and a third took more photographs, the men cut off Mr. Habib's clothes, the affidavit continues. Then they put him on a plane to Egypt, according to Mr. Margulies.

Australian officials said this week that consular officials had sought access to him in Egypt, although at the time the Egyptian government said repeatedly that he was not being held there. When Australian investigators visited Mr. Habib after he had been taken to Guantánamo, he told them he had been tortured with electric shock and beatings in Egypt, an Australian official said.

The Egyptian Embassy here declined to answer any questions about Mr. Habib.

Mr. Margulies's affidavit contains further statements by Mr. Habib about his time in Egypt.

For almost six months, the affidavit says, Mr. Habib was kept in a small, roach-infested, windowless cell, roughly 6 feet by 8, with a single light bulb hanging from the ceiling. He slept on the concrete floor. He was taken out for interrogations, sometimes in the middle of the night. Sometimes he was hung from hooks on the wall, he said. He was "kicked, punched, beaten with a stick and rammed with what can only be described as a cattle prod," Mr. Margulies wrote.

One interrogation room was filled with water until it was up to his chin, Mr. Habib told the lawyer. Then he would be left there, standing on tiptoe, for several hours.

Then the beatings stopped, his wounds began to heal, he was given meat, sweets and cigarettes. He was put in a room with a bed and allowed to sleep. Later, Mr. Habib realized this was in preparation for his being taken out of Egypt. He was first taken to the American base at Bagram, Afghanistan, and then to Guantánamo, according to Mr. Margulies.

The Australian government expected Mr. Habib to be charged and tried before a military commission, and assisted in the investigation at Guantánamo, officials said. It was only when it was clear that he would not be that the Australians asked for his release. Mr. Habib did not produce any valuable intelligence that would help in the war on terrorism, Australian officials said.

Ultimately, the Australian ambassador in Washington, Michael Thawley, took the case to the deputy secretary of defense, Paul D. Wolfowitz, Australian officials said.

The United States wanted assurances that Australia would closely monitor Mr. Habib. "They want to have some comfort that he would not be able to wander the world as he saw fit," an Australian official said.

American officials did not explain why they never brought charges. A Defense Department spokesman said of the release, "This action allows our Australian allies to ensure that their citizens who previously engaged in or supported terrorist activities do not do so in the future."

Australian officials declined to discuss what measures they were taking, beyond saying that Mr. Habib's passport would be revoked and that he would be closely monitored.

The circumstances of his release were uncertain until the last. On Wednesday, as Mr. Habib was preparing to leave Guantánamo, guards there terrified him by telling him he was being sent to Egypt, according to his lawyer. Mr. Habib had petitioned a federal judge to keep the United States from sending him back there. Not until Mr. Margulies arrived to accompany him to Australia did Mr. Habib know that he was indeed going home.

He arrived Friday afternoon.

"He's not in custody," said the Australian attorney general, Philip Ruddock. "He's at liberty."