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## Case galvanizes opponents of U.S. secrecy

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**MIAMI** - (KRT) - An act of secrecy by a Miami judge last year, "super-sealing" a lawsuit by a Florida man detained after the Sept. 11, 2001, terrorist attacks so that no trace of his case appeared in any public record, has had the opposite of the intended effect.

Mohamed Kamel Bellahouel, a onetime country veterinarian who more recently waited on tables in Delray Beach, Fla., is fast becoming known in civil libertarian circles. His challenge to government secrecy has reached the U.S. Supreme Court.

Federal agents detained Bellahouel in October 2001 and held him for five months on the theory that he might have served food to hijackers and maybe even went to a movie theater with one.

What began as a petition for his release has evolved into a battle over the public's right to know what its government is doing. Bellahouel, 34, alleges that a series of federal judges sealed the entire case against him without giving any reason, without allowing him or anyone else a chance to challenge the action.

All of which places Bellahouel, an unassuming immigrant living with his wife, daughter and mother-in-law in Deerfield Beach, Fla., at the center of a legal storm.

U.S. Attorney General John Ashcroft and his prosecutors have warned that releasing even the names of post-Sept. 11 detainees could undermine national security. The Supreme Court last week refused to hear an appeal by civil liberties groups, which contend that such basic information should be public.

Open-government advocates argue that the secrecy shrouding Bellahouel and other detainees runs contrary to bedrock American values.

Attorneys in another prominent Miami case, that of convicted Colombian drug kingpin Fabio Ochoa Vasquez, allege a larger conspiracy to hide court proceedings from the public. They contend that the clerk of the federal court in Miami maintains a secret docket of cases - legal proceedings whose very

existence is cloaked.

They cite the case of Nicolas Bergonzoli, a drug smuggler sentenced to 37 months in federal prison on a plea agreement. No public record of the case existed until Ochoa's lawyers persuaded a judge to unseal portions of the record last year. The attorneys wanted access to the file because of the possibility that Bergonzoli might testify against Ochoa. (He never did.)

"When you put the case number in the computer system, it came up empty," said Richard Strafer, an attorney for Ochoa. "And the clerk's office, when we approached them, refused to acknowledge it existed."

Some measure of secrecy is accepted in the courts. A plaintiff or defendant may ask that a matter be sealed; a judge considers the request and rules. The request, the ruling and the rationale are all disclosed to the public.

What sets these two cases, Bergonzoli and Bellahouel, apart is that they were sealed without any such public legal dialogue, and sealed in their entirety.

Neither the chief judge of the federal court in Miami, William Zloch, nor its clerk, Clarence Maddox, could be reached for comment on the sealed cases. A spokesman for the Justice Department, whose solicitor general is handling Bellahouel's petition to the Supreme Court, declined to comment.

Bellahouel has become one of the best known of the 1,200 people detained after Sept. 11, 2001. He is identified in Supreme Court documents only as M.K.B. The public version of his petition is heavily redacted, meaning that entire pages are blank.

U.S. District Judge Paul Huck sealed Bellahouel's lawsuit after his fall 2001 detention, forging a chain of official secrecy that wasn't broken until his appeal reached the Supreme Court.

His name might never have leaked out but for a clerical error that briefly put his name on a list of March 2003 court hearings. A reporter for The Daily Business Review, the legal-affairs newspaper, became curious and tried to attend. The appellate judges closed the courtroom.

Born in the Algerian city of Blida, Bellahouel worked as a rural veterinarian before coming to the United States in 1996 to study biology at Florida Atlantic University. Out of money a year later, he left school and eventually took a job waiting on tables at the Kef Room, a gyros-and-falafel restaurant on Federal Highway in Delray Beach.

Federal agents picked up Bellahouel at his home Oct. 15, 2001, ostensibly on a violation of his student visa. At some point, he was taken to Alexandria, Va., to testify before a grand jury investigating post-Sept. 11 terrorism.

He apparently had nothing to add to the investigation. Authorities released Bellahouel on bond in March 2002, signaling that they no longer considered him a potential threat.

Investigators targeted him because at least two hijacking suspects, Mohamed Atta and Marwan al-Shehhi, were regulars at the Kef Room.

An employee at a movie theater near the Kef Room told investigators that she "specifically remembered" seeing the waiter with a hijacking suspect not long before the attacks.

Bellahouel cannot discuss his case or even be photographed because of a gag order approved by a federal judge, according to Paul Rashkind, his federal public defender. Rashkind, too, is gagged.

Earlier this month, a coalition of 23 news organizations, including parent companies of both The Daily Business Review and The Herald, formally asked to join the Bellahouel case and gain access to the sealed documents.

Bellahouel is concerned mostly with his unresolved immigration status. Until that is sorted out, he cannot work to support his American-citizen wife and 12-year-old stepdaughter.

"He basically was a guy who was in the wrong place at the wrong time," said David Silk, his immigration lawyer. "If he weren't an Arab national, if he weren't a Muslim, we wouldn't be sitting here now."

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