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Lawyers Fight for Detainees Ga. Firm Assails Guantanamo

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When John Chandler first set foot on Guantanamo Bay, Cuba, this summer, it reminded him of the military bases he patrolled as a U.S. soldier almost 40 years ago.

But that feeling quickly evaporated when Chandler arrived at the U.S. military complex that holds more than 500 terror detainees. "I felt an overwhelming feeling of shame and anger," Chandler said.

Chandler, who normally litigates business disputes, is one of six lawyers from the Atlanta firm Sutherland, Asbill & Brennan who have volunteered to represent detainees held at the Guantanamo Bay Naval Station. One of the six lawyers is Chandler's wife, Beth Tanis, a fellow partner in the firm.

The six lawyers represent five Yemeni detainees and, Chandler said, they have grown increasingly perplexed and frustrated that none of the men has been charged.

"I'm sure there are some bad dudes down at Guantanamo," Chandler, 61, said during an interview at the firm's Midtown offices. "But I haven't met them. Our clients have been down there now for four years. What could they know now? The government should not be able to hold them indefinitely and never charge them."

In February, the Sutherland, Asbill lawyers began pursuing claims on behalf of the detainees through a petition for writ of habeas corpus, a civil lawsuit filed in U.S. District Court in Washington. The suit named President Bush, Defense Secretary Donald Rumsfeld and two military commanders at Guantanamo as defendants. It contended that the Yemenis were being unconstitutionally held without basis, without charge, without access to counsel and without being afforded fair process to challenge their detention.

Filing the initial lawsuit was unlike anything he had done before, said Greg Smith, a former federal defender in Atlanta who works at the firm's Washington office. Because names of the detainees had not been disclosed by the U.S. government, Smith said, he filed suit spelling the Yemeni's names as best he could with the help of translators. Only after the lawsuit was filed did the government verify that the Yemenis were being held captive at Guantanamo.

"It was the craziest thing in the world --- filing a lawsuit before you were allowed to see your own clients," Smith said.

The five Yemenis were taken into custody by U.S. troops dispatched to Afghanistan to fight the Taliban regime that had harbored the al-Qaida terrorists responsible for the Sept. 11, 2001, attacks, the administration said. In court filings, Justice Department lawyers say the five men are enemy combatants, a classification that allows the administration to hold someone captive until the end of the conflict to prevent that person from returning to the

battlefield. The designation provides fewer legal protections than prisoner of war status.

Client's hunger strike

Since February, the Sutherland, Asbill lawyers --- three from the firm's Atlanta office and three in Washington --- have obtained security clearances, traveled twice to Guantanamo and flown to the Middle East to visit their clients' relatives. Four of the lawyers and two translators returned to Guantanamo on Monday.

During their most recent visit in late September, the lawyers learned that client Muhammad Al-Abdullah Bawazir was waging a hunger strike.

Bawazir initially worked at an Afghani orphanage, teaching the Quran to children. He then worked as a clerk for a charity group that ministered to refugees, said Tanis, Chandler's wife and volunteer attorney. After his capture in Afghanistan, Bawazir told his attorneys, he was brutally beaten by anti-Taliban native soldiers of the Northern Alliance shortly after being interrogated by U.S. soldiers. Bawazir said the two scars on his scalp were caused by the beatings and led him to sign a false confession, Tanis said.

"He has said he would have signed anything at that point," said Tanis, who specializes in complex litigation involving accounting firms.

Bawazir is accused of using counterfeit travel documents, attending a weapons training camp in Afghanistan, fighting with the Taliban and firing at U.S. or coalition forces.

During a tribunal hearing, Bawazir denied all allegations, according to a transcript.

"Why would I fight the United States of America?" Bawazir asked. "I have nothing against them . . . I wasn't a fighter."

'He intends to die'

When Sutherland, Asbill lawyers first met Bawazir in June, he weighed about 135 pounds. When the attorneys returned in late September, Bawazir had lost 20 pounds because of the hunger strike he began Aug. 8. He was so emaciated the lawyers hardly recognized him, Chandler said. Bawazir sat in a wheelchair with a feeding tube dangling from his nose. The lawyers cut short their visit because Bawazir was exhausted from the effort of sitting up.

"He said he intends to die in Cuba," Chandler said. "He said he would never eat another bite or drink another drop of water. It is his intention to die there because there is no hope of anything else."

Bawazir asked his lawyers to try to get the military to stop force-feeding him. "I told him I just could not do that at that point," Chandler said.

The lawyers have found litigating the Guantanamo claims challenging because of the classified nature of the cases. It often takes weeks for a letter to reach their clients. Once the lawyers finish interviewing a detainee, they must turn over their notes to military personnel. The notes are returned two to three weeks later; with some sections having been redacted for security purposes.

Developing trust

Also difficult was gaining the trust of their clients, an important hurdle because if a detainee has not signed a retainer agreement by the end of a second visit, the lawyers are no longer allowed to visit with the detainee.

For this reason, some of the volunteer lawyers traveled to Yemen this summer to visit with their clients' relatives and made videotapes of the meetings. The legal team then filed a court motion to allow them to show the videos to their clients. The U.S. government initially opposed it, but after a court hearing, the military consented to allowing the detainees to see the videos.

During a recent debate in the Senate, which voted to restrict habeas litigation by Guantanamo detainees, legislators made light of court motions that sought to air the "family videos."

That angered Chandler. "That really understates what was going on there," he said. "The first time we met them down there they didn't know who we were or whether we were part of another military trick to get them to talk. It was something we did to try and establish the credibility of the lawyers."

Law firm supportive

Chandler said not all attorneys at Sutherland, Asbill & Brennan have embraced the idea of the firm's lawyers representing Guantanamo detainees. But he said the firm has been highly supportive of the pro bono work.

Other Atlanta lawyers representing Guantanamo detainees include members of the Bondurant, Mixson & Elmore firm and Howard Manchel, a criminal defense attorney.

Chandler, who helped found the Atlanta Volunteer Lawyers Association some 25 years ago, said he became involved in the Guantanamo litigation after the New York-based Center for Constitutional Rights said it was seeking volunteers on behalf of relatives of Guantanamo detainees. So far, he said, it has been a fascinating experience.

"It's also been a horrible experience," Chandler said. "I love this country and served it in the Army. How can my country do something for which we condemned Communist countries and for which we are now condemned by the world?"