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Defending Rights of Detainees

Lawyers for inmates at Guantanamo face doubt, U.S. red tape

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Rocky Mountain News

November 25, 2005

He would not look at them.

The prisoner sat hunched in a chair, his arms held tight against his chest, his feet shackled to the floor and his eyes on the table - not on the three lawyers and the Arabic interpreter sitting on the other side.

Two of the lawyers, Denver attorneys John Holland and Anna Cayton- Holland, had struggled with government red tape for eight months and traveled 1,500 miles to tell this man, on this October day, that they volunteered to represent him. They were offering their services at no charge to defend him against the United States government, which has jailed him since 2002.

But he didn't believe them.

The father-and-daughter legal team from Colorado had been warned by other lawyers - travelers before them to the facility at Guantanamo Bay, Cuba - to expect that response. Still, its intensity surprised them.

"He was just huddled together," Cayton-Holland says.

"They say they've been told by people repeatedly that they were lawyers when they weren't, and they turn out to be interrogators," Holland said.

Volunteer representation

The client is Ahamed Abdul Aziz, a family man in his 30s from the North Africa nation of Mauritania, where most residents are Muslims. He had fled his homeland for fear of political persecution and was teaching in Afghanistan while seeking asylum in Europe. When the United States invaded Afghanistan, he fled to Pakistan. He was arrested there in 2002. He says the Pakistanis who apprehended him handed him over to U.S. authorities in exchange for money.

His new lawyers from Denver, who met with Aziz on each of the four days they spent at Guantanamo last month, don't know exactly why he's a prisoner. He is among the more than 500 people that the United States is holding there as alleged terrorists or "enemy combatants." Aziz's lawyers are waiting for the government to turn over its file on him.

Last year, the U.S. Supreme Court, over the objections of the Bush administration, ruled that Guantanamo detainees are entitled to lawyers and have the right to contest their imprisonment, or the conditions in which they are held, in the U.S. courts. More than 200 lawyers across the United States have volunteered to represent the prisoners, some of whose names haven't been disclosed by the government.

Sometimes the names come from other prisoners who already have met with their lawyers. Sometimes they come from family members who have been notified by the International Red Cross that their loved ones are at Guantanamo.

Aziz is one of four inmates represented by Holland, 59, and Cayton- Holland, 27.

The legal team also represents two brothers held at Guantanamo: Ahmmed Ghulam Rabbani and Abdul Raheem Ghulam Rabbani, both in their 30s, both Pakistani citizens and both arrested in Pakistan.

Their fourth Guantanamo client is Mohammed Al Amin, a man in his 20s who, like Aziz, is from Mauritania. They know little else about him.

Holland hopes to travel to Mauritania soon to meet the families of the Mauritanian prisoners.

Governmental red tape

In the meantime, the lawyers are working to overcome what they see as deliberately obstructive government bureaucracy.

Many of the volunteer lawyers have accused the U.S. government of deliberately placing obstacles in the way of legal representation for the Guantanamo detainees.

"They have consistently created roadblocks and delays to any kind of legal process," said Gita Gutierrez, a New York lawyer who has represented several Guantanamo prisoners. Gutierrez works for the Center for Constitutional Rights, which is coordinating the prisoners' representation.

Gutierrez and other lawyers have complained that their security clearances take unreasonably long, that it's too hard to schedule trips to the facility in Cuba, that mail between the prisoners and their lawyers has been unreasonably delayed - sometimes for months - and that the government is too slow to disclose why it's holding the prisoners and what evidence it has against them.

Even getting responses to the allegations requires navigating a difficult bureaucracy.

U.S. Department of Justice spokesman Brian Roehrkasse first referred inquiries about the allegations to the U.S. Department of Defense. He later agreed to call back with answers.

Instead, another spokesman, John Nowacki, called back but said he could respond only to specific complaints

involving specific prisoners, specific lawyers and specific incidents. Eventually, he called back to address some of the lawyers' general allegations.

Security clearances normally take four to 10 weeks for anyone, for any purpose, Nowacki said. Holland and Cayton-Holland said theirs took four months.

Nowacki said the lawyers' trips to Guantanamo generally occur when they ask for them, although sometimes they have to be rescheduled "for operational reasons," such as a shortage of accommodations for lawyers.

He said mail between the lawyers and their clients usually is delivered efficiently, except for a period last summer when the mail room at the prison was using an incorrect zip code. That problem has been corrected, he said.

Finally, he said the government doesn't think it should have to turn over its evidence while appeals courts weigh whether the prisoners can proceed with their legal claims.

Assembling the evidence for the prisoners' lawyers is "a resource-intensive process," Nowacki said, particularly because some of the information is classified and must be reviewed before the lawyers are allowed to see it, even though they already have security clearances.

He declined to respond to the lawyers' general allegations that the U.S. government is deliberately putting roadblocks in the way of the prisoners' legal rights.

The government has declared that most of the prisoners at Guantanamo are not entitled to protection under the Geneva Convention, which typically covers prisoners arrested during wartime. Federal authorities argue that the war on terror poses unique challenges - and requires a unique approach.

Gutierrez said the volunteer lawyers first must fill out lengthy forms to seek a security clearance. They must be fingerprinted and must sign releases to let federal agents inspect their tax returns and credit histories. They must disclose whether they ever have received any mental health treatment.

They must list all of their addresses for the past decade and, for each address, the name and current address of someone who knew them there at the time.

"Pages and pages," Cayton-Holland said of her address list.

The FBI agents who do the investigating also contact people the lawyers don't list.

"I definitely got calls from people I hadn't put down," Cayton-Holland said.

The lawyers also must disclose all their travel for the past 10 years. Holland, whose family likes to travel, said he was quizzed about why.

Then four months passed with no word.

Scheduling difficulties

"I finally called DOJ (the Department of Justice)," Cayton- Holland said.

Her father had received a security clearance. Hers still was only interim, but it was enough to allow both of them to travel to Cuba.

"Then you try to get a date to go," Cayton-Holland said.

Only a handful of volunteer lawyers can be at Guantanamo at a time. They must get there on small planes that fly only at certain times, and not always at those times.

"You tell who you want to see and on what days," Cayton-Holland said. "You receive permission to go. Then you book airline flights. You have to have separate clearances for the exact trip."

The lawyers wait their turns. Often, their scheduled trips must be rescheduled. The Denver lawyers paid for three sets of airline tickets they never used.

They flew to Fort Lauderdale, Fla., arriving too late for that day's plane to Cuba. They spent the night. Their plane to Cuba took off the next afternoon but got to Guantanamo Bay too late in the day for the lawyers to meet their clients. They spent another night.

"Sanitized horror," Gutierrez, who first visited Guantanamo last September, said of the prison.

"The images that you see in the media are of men in white jumpsuits playing soccer," she said. "But unlike any other prison in the United States, you don't see a single prisoner. Razor wire is everywhere. They're locked up. There are soldiers everywhere. It's quiet."

She said the lawyers are constantly escorted by military officers. From their quarters, they ride a bus 20 minutes to a ferry, then take a half-hour ferry trip to be driven to where their clients are held. The trip is about an hour and a half each way.

"The client is in this little box," she said. "On one side, there's the cell and toilet and shower, and an overhead security camera 2 4/7. There is a very narrow window by the door. On the other half is a table for interrogations or attorney meetings."

After the lawyers finish their meetings with their clients, the military escort takes their notes. The notes are reviewed for any classified information, then mailed to the lawyers' offices.

Cayton-Holland's notes got to Denver quickly. But federal authorities initially told Holland that they couldn't read his notes and that he would have to travel to Washington, D.C., to type them legibly. He didn't go, and his notes since have arrived in Denver.

When lawyers feel the need to include classified information in motions they file with the federal courts in Washington, D.C., they are required to travel to the capital to type on secure computers at a secure facility, Cayton-Holland said.

Inmates say rights ignored

Two of the Denver lawyers' clients have participated in hunger strikes by prisoners protesting their long imprisonments. The inmates say they are being denied rights guaranteed by the U.S. Constitution: the right to know why one is being imprisoned, the right to confront one's accusers, the right to a lawyer, the right to humane treatment in prison, the right - guilty or innocent - to present one's case in court and to be treated fairly there.

Holland said the volunteer lawyers signed on to represent the Guantanamo prisoners because they believe everyone is entitled to those rights and that the executive branch of the U.S. government is wrongly trying to deny them.

"We're not talking about bin Laden's personal bodyguards here," Holland said. "These guys are poor as dirt. . . . They have no power."

The Guantanamo lawyers also said they want Americans to understand what is happening there because they fear it could signal an end to American democracy.

"We don't need to lose all of the Constitution without even so much as a peep," Holland said. "The people of America are not aware, do not appreciate and don't understand what they're losing - something so precious, something so core, as the idea of liberty."