

“GTMO Arrest”

A funny thing happened on my fourth visit to the Guantánamo Naval Base. The DOJ refused to allow us to visit one of our clients because the DOJ wanted to preserve its position that prisoners could not serve as “next friends” for habeas petitions – a position the courts had uniformly rejected. We were forced to file an emergency motion, which Judge Walton granted just two business days before we were scheduled to fly to the base. Despite some prodding, the DOJ waited until the last business day before the trip to send me the country and theatre clearances that would allow me to be on the base. In a rush to finish some other matters, I printed the two clearances attached to the e-mail and put them in an envelope with my other travel documents. That turned out to be a big mistake. I arrived at the base at about 5 p.m. on Sunday, July 30, 2006. When asked to present my clearances, I confidently pulled out the two documents I had printed on Friday. Unfortunately, the DOJ had sent me two copies of the theatre clearance and zero copies of the country clearance. I could not reach the DOJ because it was Sunday night. Although everyone at the base knew that I was authorized to be there, no one seemed to have the authority to allow me to stay there without the magic country clearance.

Initially I was escorted to a guard office adjacent to the airport, where I waited two hours while a guard attempted to reach someone at the base who could resolve the issue. The authorities finally determined that I needed to go to the windward side of the base. Armed MPs helped me haul my baklava-laden luggage into a speedboat, all the while thanking me for being so “compliant” and apologizing that the trip might be uncomfortable. Foolishly, I thought they were worried I might be seasick. One MP handed me a rope that was tied to the prow of the boat and told me to hang onto it. I soon discovered the wisdom of this advice, as the boat sped across the bay. The trip that

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ordinarily takes twenty-two minutes by ferry lasted only three minutes. I am certain I would have flown overboard if I had not clung to the rope.

Once on the windward side, we climbed about fifty stairs from the boat landing up to the Badging Office, hauling my luggage with us. We waited in the Badging Office for about half an hour for someone from the Staff Judge Advocate's office to arrive. After several minutes of consternation about my plight, the SJA announced that he might be able to locate the missing country clearance—because, of course, it had originated with his office. We soon returned to the leeward side of the base, and I arrived at the CBQ exactly three hours after my plane had landed.

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