

Voices for the Silenced

Attorney say the damage the detention center has done to the U.S. will never be undone'

By **RICHARD HALICS**
rhalicks@sjc.com

John Chandler has a sense of humor about his work. He even created "Gitmo Bar Association" T-shirts for lawyers and others working on the cases of detainees held by the United States at Guantanamo Bay.

But not far beneath the surface, the anger and outrage are always there, and it's not hard to draw them out. Ask him about the future of the Guantanamo Bay detention center.

"Guantanamo will be gone in some reasonable time after the Bush administration is gone," Chandler says. "But the damage will never be undone. No matter what the truths and the merits of Guantanamo are, Guantanamo has now become a word that has a meeting.... In about 175 countries around the world ... that meaning is a shameful one."

Chandler and his wife, Beth Tanis, both partners at the Atlanta law firm of Sutherland Asbill & Brennan in Atlanta, have been working since 2005, free of charge, to win due process rights for five Yemeni men held at Guantanamo. They say they are not asking that their clients be freed, but simply that they get a fair hearing in a public court.

Their opponent, the U.S. government, has argued that the detainees do not fall under the jurisdiction of U.S. civilian courts because they are not being held on U.S. soil. And the

"Gitmo Bar Association" has taken heavy criticism from opinion columnists and others for "representing terrorists."

Cully Stimson, a Defense Department official, in January 2007 castigated the law firms whose attorneys are working on behalf of detainees: "I think, quite honestly, when corporate CEOs see that those firms are representing the very terrorists who hit their bottom line back in 2001, those CEOs are going to make those law firms choose between representing terrorists or representing reputable firms."

Stimson apologized for the remark, which three weeks later cost him his job.

Chandler and Tanis have visited Guantanamo 12 times. The visits often are the "classic hurry up and wait," Tanis says.

"The protocols seem to change almost every time we go down there, and they seem to eat up more and more time, which minimizes the amount of time we can have with our detainees," she said.

The Guantanamo cases are mostly in limbo as the U.S. Supreme Court decides the question of whether detainees have a constitutional right to habeas corpus, which enables prisoners, by filing civil lawsuits, to try to convince an independent judge they are being legally detained.

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Congress then passed the Military Commissions Act of 2006, which did not extend habeas corpus rights to detainees. Instead, Chandler said, it set up a review by a federal court of whether the military tribunals had followed proper procedure.

President Bush called it "one of the most important pieces of legislation in the war on terror. ... [It] will allow us to prosecute captured terrorists for war crimes through a full and fair trial." Chandler and others aid the law was no substitute for the right of habeas corpus, and advocates for detainees used again. This time, they asserted that the right to habeas is protected not just statute but by the Constitution itself.

The Supreme Court heard arguments on the matter in December and is expected to rule by summer.

"It is probably the most important decision in individual liberties, constitutional law, of this century," Chandler said. "For the first time, the administration has taken the position that it has the right to hold men in perpetuity, without any access to the courts, without being taken before a judge, without the right to a lawyer. The Supreme Court is going to interpret the constitutional provision that says that the right to habeas shall not be

suspended, except in cases of civil insurrection."

Chandler recently wrote an article for the *Journal-Constitution* in which he told the death of a Guantanamo detainee who, Chandler said, did not receive appropriate treatment for his colon cancer.

Lawyers trying to document what sort of treatment the man got have created a snowstorm of Freedom of Information Act requests, Chandler said, to no avail.

"Each time we would send a letter to get his medical records, we would be told they didn't have it, try somewhere else," he said. "Now, literally 15, 16 rejections down the road, we are ready to file suit and have some judge say, 'Oh, come on, one of you guys is lying. Somebody's got his medical records.'"

Chandler: There on the wall [of his office] is a piece from one of our men named Suleiman, who made and gave us a gift of some artistry. What would you call that—

Tanis: Flowery types—

Chandler: A flowery thing, which the United States government classified, market secret. We appealed it and got it unclassified, so up on our wall over there is a picture of it with a big red stamp marked "Secret" struck through.

Tanis: All our work with the detainees is marked classified. It may contain a secret message.

Chandler: It just has the name and date. He drew it. ... He wanted to give us something. What can he give us? His spork that he gets once a day to eat with?

Both lawyers say it's time the detainees got hearings.

"There are 270 men left there," Chandler says. "The United States government has sent home 500 of them, to get down to 270. If they're worst of the worst, why are they

letting them go? Why don't they try them? Why don't they convict them? I would suggest to you that the government makes up words as it needs to, to justify its ends."