

## **Guantanamo Reflection** **by John J. Connolly**

About three hours into my first meeting with a detainee at the Guantánamo Bay military prison, the detainee asked me about a faint scar on my face. The scar runs around my left ear and partway down my neck, in a rough outline of a question mark. It was the second time in twenty years someone had asked me about that scar. The two instances could not have been more different, but the people who asked had a memorable similarity: both were surgeons.

My law partner Bill Murphy and I had traveled to the Guantánamo prison in May 2005. We knew very little about our client, Ayman Batarfí, and had no idea what he had done to end up in Guantánamo. We knew the government had described the Guantánamo detainees as cable-gnawing killers, the worst of the worst. Getting to the prison for our first client meeting had been one surreal event after another: the FBI background check, the three-hour propeller flight from Ft. Lauderdale; the stunning Caribbean night sky; the bizarre land crabs skittering across the Guantánamo pavement during a predawn run; the porpoises casually accompanying the ferry to the business side of the base; the military-grade speed bumps at the entrance to the detention center; the M-16s hanging from the shoulders of bored soldiers; and, finally, the incongruously blue sea providing backdrop for razor wire and prison watchtowers. By the time we entered the prison gates, I would not have been surprised if the prison staff announced that our client was actually an iguana, and the interview would be conducted in the reptile house.

Instead, we were led to a prefabricated shack about the size and shape of a campground cabin. The marine guards opened a steel door, and there, sitting behind a flimsy card table with one ankle chained to the floor, was a man who—who could not possibly have been a terrorist. For one thing, I towered over him. He was a portrait of shyness: head slightly bowed,

eyes peering upward, uncomfortable grin. He shook our hands like anyone else and greeted us in very good English—quite a relief since we had not brought a translator. After a few minutes of preliminaries, Ayman proceeded to tell the most extraordinary story I had ever heard, culminating in early December 2001, on a mountaintop in the Tora Bora region of Afghanistan, where he unexpectedly met alone with Osama bin Laden—and basically asked him what on earth was happening and how could it be stopped.

After several hours Ayman came to a pause in his story and leaned back. My hand ached from continuous note-taking. Bill and I took a breath as we tried to absorb the assault of facts. In that quiet moment, Ayman pointed to my face and traced a question mark in the air. “What type of operation?” he asked. Well, I thought to myself. He *is* a surgeon.

Not that I had any reason to doubt it. We had just learned that Ayman was born in Egypt, lived as a child in Yemen, grew up mostly in Saudi Arabia, and went to medical school in Pakistan. He trained under one of the most prominent orthopedic surgeons in Pakistan. Many detainees ask their lawyers to send sports magazines, comic books, and novels. Ayman asked for a dense medical treatise on orthopedic surgery. (I later sent a treatise—not the one he wanted I’m afraid—but the military would not let him have it.) Ayman’s specialty in Pakistan was repairing pediatric wrist fractures with external fixators. His eyes brightened as he tried to explain this procedure to two American lawyers who weren’t sure whether the arm bones were the ulna and radius or the tibia and fibula. As I understood the procedure, the surgeon installs a metal brace on the outside of the patient’s forearm by anchoring it to bones in the arm and hand. It looks a bit Frankensteinian, but Ayman explained that the patients rapidly recovered use of their hands. Having broken my wrist once, I asked whether the patients could operate a computer keyboard with the fixator in place. “Not a problem,” Ayman said: “no computers.” Oh, right.

It dawned on me that severe bone injuries were rampant in a part of the world flooded with rifles, land mines, bombs, and so many people willing to use them. Young Dr. Batarfi had treated many Afghan refugees with horrific injuries that had been untreated or mistreated in Afghanistan. Taliban-controlled Afghanistan needed help from everyone who could offer it, but it is hard to imagine anyone more useful than an orthopedic surgeon. And so, in the summer of 2001, during a break in his post-graduate studies, Dr. Batarfi traveled to Afghanistan both to continue his studies and to offer his services as charity to a desperate people. That fateful decision eventually led to Ayman's seizure by Northern Alliance forces, who despised all Arabs in Afghanistan, and to his subsequent "sale" to U.S. forces. Ayman's full story is too long and too complex to recount here, but through six years of incarceration, Ayman has unequivocally (and convincingly in our view) maintained he was never a member or supporter of al Qaeda or any terrorist organization, he has never been an enemy of the United States or its allies, and he wants nothing more than to return home, where he could do so much good, before he loses his mind and his surgical skills.

Ayman's professional interest in my scar triggered a memory. Sixteen years earlier, a visitor from the medical campus was researching a legal issue in the law library, and I helped him find some unremembered treatise. He was standing immediately to my left while I was bent over the book. "Parotid gland?" he asked, out of the blue. "Surgeon?" I replied. (We were both right.) At that time, as a beginning law student, I had only a rudimentary knowledge of due process as a legal construct. But I had a visceral understanding of what it meant as an American value. The enemy at the time was the Soviet Union and China – totalitarian regimes that treated individual justice as a state weakness. Some of our nominal allies were no better (Iraq and Afghanistan come to mind). These were places that plainly could not be trusted to separate the

innocent from the guilty or to conduct a fair trial, and that was a palpable and objective reason why America was morally superior. In 1989, you could not have convinced me American authorities would claim a right to incarcerate an individual, *any* individual, for six years or longer without a charge, without a lawyer, and without a trial. I would not have believed my country would establish a prison in a remote part of the world chiefly to avoid the reach of the American judiciary. I certainly would not have imagined American law would permit unconvicted detainees to be waterboarded, chained in stress positions, slapped, sound-blasted, chilled, isolated, and psychologically tormented.

A day at Guantánamo is filled with down time. The military prison limits visiting hours, and defense lawyers inured to much longer work days are ferried back to the leeward side, where communications are poor and entertainment options are slim. On one trip to Guantánamo, I spent two full days on the leeward side because Guantánamo medical staff would not permit Ayman to meet with me. The down time is not altogether unpleasant, but it provides the merest glimpse of professional isolation: an unreturned phone call, a lost email string, a moment outside the loop. How much worse would it be for a highly trained orthopedic surgeon, wrenched from work and family and *really* isolated for six years, to feel his skills eroding into dust, day after lugubrious day. These are the thoughts that linger as the slow plane to Ft. Lauderdale climbs around the tip of Cuba, and the detention center comes into view, the clear blue Caribbean waters lapping silently against its shore.