

Guantánamo Stories

I was at my desk working on a brief for a motion in another case when John Sifton of Human Rights Watch called. His first question was whether we knew that Rafiq Alhami, one of our clients, had been held in a “prison of darkness” just outside the airport in Kabul, Afghanistan. This was one of the CIA’s not-so-black sites. John said he had learned this from several other people who they discovered had been held in the same prison. He understood that there was another person in Guantánamo to whom they had not spoken who may also have been there. John wanted to know if Rafiq knew who that person was.

I immediately called my father, Mark Denbeaux, professor of law at Seton Hall University, and co-counsel representing our two clients. He was as stunned as I was. We had already met with Rafiq, twice, and had never heard about this prison. Rafiq had always presented himself as polite and politely distrusting of America, American lawyers in particular.

We had already scheduled a trip to Guantánamo to see our clients, Rafiq and Abdul. In the ten days or so before our trip, sometime in mid-May, President Bush announced that he wanted to close Guantánamo. There were newspaper stories with bold headlines repeating the President’s statements. We brought those down with the intention of showing them to our clients in order to give them a morale boost and because it was relevant to our attempts to persuade them to let us take additional steps to protect them.

Both our clients had previously directed us not to make any attempts to contact their families in any way, shape or form because of the problems it would cause for the families. Both of them were from Tunisia and both had left Tunisia. Rafiq had gone to Germany as a young man and Mohammed to Italy at nineteen years of age.

In the morning we arrived to see Mohamed and had to go through the normal delays, multiple searches and more delays without any apparent point or purpose. We arrived at the hut, the interrogation chamber, with our pizza, black coffee and sugar, some Tunisian dates and an egg sandwich without meat. Just like the other times we visited him, he was chained to the floor in front of his little white plastic table.

It was immediately apparent that there was something very wrong. He was without affect, clearly depressed, and refused to talk. When we produced the food, he finally spoke: “Are you going to force me to eat?” We of course said, “No, no.” He shrugged and refused to make eye contact.

Our translator, who translated for many of the habeas attorneys, had met many of the detainees, said that there was something terribly wrong with him. He was clearly either very distressed or about to faint. Our translator had visited Mohammed with us repeatedly and was trained as a medical doctor in his home country of Egypt. Mohammed indicated that he was willing to listen to us, but he did not want to talk. It was very difficult. In the course of the incredibly tortured time together, when one of us would speak there would be very little reaction.

We were quickly running out of things to say to Mohammed. We had no idea of any interests he had before he was detained in Guantánamo, and our cultures, education and general backgrounds were entirely different. Unless our clients give us clues to their interests in conversation, we are pretty much lost.

The one thing in which they are always interested: what are you doing for me? This topic of conversation can be covered rather quickly. You can explain all the work you are doing; you can explain that you have exposed hypocrisy and outright mendacity by the United States government about Guantánamo, but you cannot tell him that you have actually achieved anything.

Toward the end of the morning period we tried telling him of the President's words, words that we believed even though we should have known better. The President's words were that he wanted to close Guantánamo. We wanted to show him the newspaper stories, to show that we were not lying, because clearly this information was not likely to be believed, but we never got around to it. We were going to show them to him after lunch, to give us something more to talk about.

When we entered in the morning, guards inspected our packages and saw all of the newspapers that we were going to show Mohammed. They had inspected all of the materials to make sure that we were not bringing out any contraband. Not that there was any possibility of contraband being provided. When we came back after lunch to see Mohammed, a guard took the newspapers out of our bags. "What's this?" he demanded.

We explained that the newspapers were important information for developing our attorney-client relationship. The newspapers quickly went into the garbage bin. We were instructed not to discuss current events with our clients and that such newspapers were contraband. So we waited. And after that, we waited some more. Our enlisted man could not (or did not) explain why we were delayed. After about an hour, an Army captain approached and told us that we could not see Mohammed because he had been removed from the questioning area and taken to a hospital.

All of a sudden we realized why Mohammed looked so awful and why he had asked if we were going to force him to eat. Mohammed had been on a hunger strike, and he was now in the hospital wing, strapped arms, legs, body and head to a chair, a feeding tube thrust up his nose and down into his stomach. We demanded to see him but we were, of course, refused.

This led to some intemperate shouting by us to the person telling us that our client was unavailable. We demanded to talk to a senior officer. When an even more senior officer was roused from behind a desk somewhere on the base and dragged out to the bus, I demanded to know why Mohammed was in the hospital, why he was taken on the day we had been scheduled—for months in advance—to speak with him, what was happening to him, what was his diagnosis, and what treatments were being proscribed. All was met with a flat refusal to provide any information.

At the end, we were told that we could come back in the morning and see our other client, Rafiq, as was previously scheduled. Maybe we could see Mohammed on the third day.

Maybe.

Our appointment with Rafiq was to be the more important of the two meetings because we had to talk to him about the prison of darkness and about access to the other detainee. We arrived there in the morning at which time an enlisted man came out and told us that Rafiq refused to speak with us.

This time we refused to speak with the same captain who had failed to help us the day before, and we demanded a chance to speak with another senior officer. We were, by dint of being increasingly rude and confrontational, told that another Army captain would be arriving to talk to us. Thirty minutes later the promised captain approached and met us on the bus waiting outside the prison. There followed a heated discussion in which we shouted and carried on about our client access. The captain, who turned out to be a very smart, very nice guy, simply took the abuse. There really was nothing that he could say, and he offered no defense. He listened politely.

I realized that I liked this guy. “You’re not going to engage us in this argument, are you?” I asked him.

“Nope.” He responded. “I am not stupid.”

I grinned at him. “Then would you please give us someone stupider?”

The Captain (whose name I am not going to reveal) gave a bit of a smirk. “Well, I’ve got this lieutenant colonel...”

“Lieutenant colonel?” said Mark Denbeaux, “Screw him. I want the Base Admiral.”

Another smirk. “Can’t do that!” And then he smiled again.

Shortly thereafter a lieutenant colonel arrived who, as we hoped, was dumber than the captain.

This lieutenant colonel, who sought to impress us with the fact that he was a tax attorney with a “major international corporation” when not called into active duty, was, to be kind, plump.

He tried to actively defend the government actions to actively interfere with our attorney-client relationship. He insisted that Rafiq did not want to speak with us and, at first, also refused to allow us to have a letter sent in to Rafiq telling him that we were here to talk with him. When pressed as to why we could not have a letter given to Rafiq he took the position that it was because there was no one available to deliver it. We looked at him in disbelief because Rafiq was, we had been told, less than four hundred yards away.

“If that’s too much exercise for you, I’ll do it,” I offered. The lieutenant colonel allowed us to write a letter which he promised he would have delivered to Rafiq. As we learned the next day, that letter went undelivered, although the government claimed that Rafiq had received it. The

second letter provided a place for Rafiq to sign, but it came back unsigned with the explanation that Rafiq had refused to sign it. We learned the next day that that was also untrue.

At the end of the afternoon the lieutenant colonel said that under no conditions would Rafiq be made available for us, but they would allow Mohammed to talk to us again the next day, if Mohammed was willing and well enough.

At this point, we were sent back to the ferry and to the barracks where we stayed. By this point we had come all the way to Guantánamo, and on the first day, we had seen our client for two hours during which he was unable or unwilling to talk. The second day we had seen neither client. It had been a totally unsuccessful trip at that point.

That night we spent most of our time preparing for our second day interviewing Mohammed.

A significant feature of the information was two two-fold: first, Mr. Al-Hami was not captured by U.S. forces or by any forces; he was actually held in an Iranian jail. Apparently he had been in five different Iranian jails until he was handed over to U.S. intelligence officers—apparently the CIA. Second was that the case against Mr. Al Hami depended solely on what he had admitted to during the interrogation—there was no other objective evidence for his detention. That obviously meant that the conditions of his interrogation went to the very basis of his being held in Guantánamo.

The next day Mohammed was not available in the morning, and so we were told to come back in the afternoon because then he would be available. We came back from lunch to interview Mohammed, but when we opened the door to the little hut in which we were permitted to see our clients, it was Rafiq, not Mohammed. Mohammed, though, was made available in a separate hut.

The conversation with Rafiq was most crucial in order to find out about the prison of darkness so I interviewed him along with the translator. We had been told that the prison of darkness was an extremely and frightening place, and that all of the information about it indicated that the detainees had been treated abusively. We ourselves had no personal knowledge about it from our client who had never mentioned it.

Mark spent the time talking to Mohammed, as best as was possible without a translator, but Mohammed would not say why he was hospitalized or what treatment he received. He said the authorities must have already told me and that Mark must be trying to trick him and he would not explain. We had very limited communication. He had understood more English than he let on, but he rarely actually gave us any information. After a fairly brief interview, Mark left, and Mohammed was taken back to his cell. Mark then joined me in the interview with Rafiq.

By that time, Rafiq had confirmed that he had indeed been in the prison of darkness. He also said that he would talk, but we could not ask questions. He said that the first time he was asked any questions our interview would end. Rafiq proceeded to describe in great detail how he was taken from the Iranian prison to the prison of darkness—in Kabul, near the airport; he explained what the conditions of the prison of darkness were and how he was treated. He repeated

his initial condition: “Okay, you want to hear about the prison of darkness. I will tell you, unless you ask me a single question. If you ask me a single question, I will never mention the prison of darkness or anything to you again.” We never said a word.

The story in its simple form was quite chilling. The details of the story are recorded and have been declassified. The outline of it was simple. While jailed in Iran, he was suddenly taken from his cell, picked up by plain-clothed Americans, taken by helicopter and then by van, hooded, shackled, helmeted and blindfolded. The only time he could see was when he got into and out of the helicopter and into the van. He was then driven for hours. He was then placed in a cell; he knew it was the prison of darkness because that was what everyone called it, including the Americans. He also knew he was near an airport because he could hear the airplanes. He was held in complete darkness the entire time except when he was removed from for interrogation. He was placed in the room with a bar that ran from wall to wall. The bar was only four feet off of the ground, so he could neither sit nor stand. There was no clock, and because he was in total darkness, he had no idea of the time. Intermittently, he would be allowed to sit down. Then he would be stood up again for as long as it appeared he could. He would sleep falling down, and his wrists and hands would hurt. He was missing most of his left hand anyway as a result of an accident as a carpenter’s assistant when he was thirteen.

When he was allowed to sleep it was very cold, and there were no blankets. He did not have sufficient clothing, and they had taken his shoes away. And loud music played incessantly. He was allowed to see a few times when he was being led down the hall by to be interrogated in other cells, and he knew of other people who were there. At the end of two hours, he stopped and said, “That should be sufficient.” We then asked if we could ask him a question to which he said yes. We told him that there was another detainee who had been there with him. We told him that we were trying to find out who that was so that we could interview him. We asked Rafiq if that was true. He said, “Yes it is, but I am not going to give you his name until I check and make sure I have permission from him.” That was the end of the trip.

On the very next weekend, three detainees committed suicide. The Guantánamo authorities would not identify them. We were immediately concerned that the reason why Mohammed had been hospitalized the weekend before was because of a suicide attempt. We were unable to reach anyone. The government then gave out information that was wrong, but the information that was wrong did not in any way affect our client. It was a very distressing thirty-six hours. Two months later, Mark received an email message from a Mr. Terry Henry saying that he had violated the Protective Order by bringing contraband, that is the newspapers showing that George Bush wanted Guantánamo closed. The email stated two things. First, Mark would have to promise not to do that again in order to ever be able to visit our clients and second they reserved all rights to take whatever steps they deemed appropriate against me at some future time. That ominous statement has been sent to us several times and obviously to many others.