

Allison Lefrak

Released to Saudi Arabia

Even seated and dressed in Guantánamo's loose white prison garb that constitutes the required uniform for compliant detainees, you can see that Ghanim al Harbi is comfortably over six feet tall and physically powerful. He is seated in a well worn Lazy Boy sofa chair. There are shackles around his ankles which are connected to a metal base on the wooden floor of the makeshift interview room. Ghanim's sandaled feet are firmly anchored. I wonder why both feet need to be shackled to the base. Surely, one is sufficient.

It is January 2007, and although I have been working on Ghanim's case almost every day for six months now, I have not yet met him—this is my first trip to Guantánamo. As we enter the room, his lips immediately part and form a welcoming smile that spreads upwards to his eyes—he appears genuinely delighted to see us. He stands to greet us with arms outstretched. Doug Spaulding, the partner I work with at a Washington, D.C. law firm, smiles warmly as he walks toward our client. “It is so nice to see you again,” Doug says as the two men shake hands and embrace each other loosely. Mahmoud Khatib, our Arabic interpreter, similarly greets Ghanim. This is Doug's second trip to Guantanamo—he met Ghanim for the first time three months earlier.

In deference to Ghanim's religion, I have covered my hair with a scarf. I have not yet gotten used to it and reach up to adjust it. I extend my hand to Ghanim as Doug introduces me and Mahmoud simultaneously translates. Ghanim crosses his arms across his chest and bows his head slightly. I retract my hand, confused. Ghanim asks Mahmoud to please explain to me that he is not permitted to touch a woman who is not a family member, as it will render him unclean for prayer. He intends to pray during the lunch break, and he is not certain he will be allowed to wash before doing so. For this reason, he cannot shake my hand, but he begs me not to take offense. The sincerity of his apology is obvious even when delivered through Mahmoud.

We sit down on the couch next to Ghanim's chair and get settled. I pull out my notepad and pen ready to take notes throughout the meeting. Before we begin, we have some exciting news from Ghanim's younger brother, Mohammed—his wife recently gave birth to a baby girl. Ghanim clearly understands what we've told him even before Mahmoud translates it. His eyes fill; he smiles and asks what her name is. Mohammed did not tell us her name, but we promise to find out. Ghanim says in English, "This news you have given me—this has made me a happy man today. My tears are of happiness." I wonder how that must feel to receive news such as this that forces you to imagine your family carrying on, as surely they must, in your absence; babies are born, friends get married, parents fall ill, toddlers become teenagers—all in your absence.

In 2004, when the Supreme Court held in *Rasul v. Bush* that the writ of *habeas corpus* extended to detainees at Guantánamo, Doug watched as the detainees' *habeas* petitions quickly appeared on the docket of new cases at the United States District Court for the District of Columbia. When he decided that he wanted to take on one of the cases, I quickly began lobbying to assist him in what I viewed as a unique opportunity to represent people who had been denied legal representation for far too long. My prior *pro bono* efforts had primarily been focused on representing children—truly the most sympathetic of clients. But I firmly believed that the men detained at Guantánamo deserved competent legal representation regardless of what they were being accused of, and I had prepared myself, going into the initial client meetings, to face men who could have actually committed terrible acts of aggression against the United States. Needless to say, Ghanim al Harbi did not fit the image of the detached, America-hating, potential terrorist I had created in my mind.

In a letter dated April 27, 2006, Ghanim eagerly wrote to his new legal team, "I am happy that you all are interested in representing me in front of the federal court and that you are trying to

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gain permission for a visit so that you may meet me. I await your visit.” In October 2006, Doug and Bernie Casey, a retired law partner and close friend of Doug’s, received their security clearances and made arrangements for an initial meeting with Ghanim. It was at this first meeting that Ghanim told Doug and Bernie about his life before Guantánamo—a life to which he optimistically believed he would return.

Ghanim was born in the eastern part of Saudi Arabia near Kuwait in 1978—the oldest child in a large family. His father was an executive with Arab American Oil Company, ARAMCO. The al Harbi family had many American friends—colleagues of Ghanim’s father. Ghanim was still a young boy when Iraqi forces under the command of Saddam Hussein occupied Kuwait and threatened to invade eastern Saudi Arabia. Several of Ghanim’s cousins who were living in Kuwait at the time were either killed or taken as prisoners of war by Iraqi forces. Ghanim’s family supported the American mission during the Gulf War that followed the Iraqi invasion of Kuwait.

After graduating from college, Ghanim went to work for the International Islamic Relief Organization. In 2000, Kuwait and eastern Saudi Arabia once again fell under the imminent threat of occupation by Saddam Hussein and his forces. With memories of the 1991 occupation were still fresh in his mind, Ghanim began to consider obtaining some military training. As he explained, the Quran teaches that the eldest son in the family should be prepared to protect and defend his family. Accordingly, Ghanim began his search to fulfill what he viewed as a holy requirement. There is no draft, reserves, or military recruitment in Saudi Arabia. Ghanim applied to the Saudi Arabian Navy but did not receive a response. He then sought a civilian facility where he could obtain defense training. Unable to locate anything of the sort in Saudi Arabia, and upon a recommendation from a friend, Ghanim decided to take a three month leave of absence from work to attend a self-defense program offered by the al Farouq training camp in Afghanistan. His

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understanding of the camp was that it was not affiliated with any political or religious group and that it was funded by Muslim charitable organizations. This understanding was reinforced when he arrived and learned that attendees were not permitted to discuss politics or religion.

While Ghanim was at the camp, a high profile leader of the Northern Alliance was killed, and the borders to Afghanistan were closed. Ghanim remained hopeful that he would be able to return home as soon as the borders were reopened, but a few days later the attacks of September 11 occurred. Shortly thereafter, the Americans began bombing Afghanistan. Ghanim was trapped. Eventually, he met up with some other men who were trying to flee Afghanistan through the mountains. While they were trying to escape, Ghanim was hit by shrapnel from an American bomb and seriously injured. He made his way to a hospital in Jalalabad which had been taken over by the Northern Alliance when they prevailed over Taliban forces in Afghanistan. Ghanim remained at the hospital for six weeks. During that time, he repeatedly asked if he could be taken to Pakistan with the hope that he could get home to Saudi Arabia from there, but he was told this was not possible. Frustrated, and hopeful that the Americans might help him, Ghanim asked to be turned into American forces. Northern Alliance troops sold Ghanim to American troops for a “bounty” of 5,000 dollars. To this day, Ghanim does not know what false information Northern Alliance troops gave the Americans in order to secure the bounty.

Instead of being helped home, Ghanim was taken to Bagram prison where he endured severe conditions and harsh interrogations for several months before being transferred to Guantánamo Bay. Ghanim recounts this story without a trace of bitterness towards Americans. After five years of being held in an American prison without ever being informed of the charges against him, was it really possible that this man had nothing negative to say about America? Could he really have no anger at all towards his captors? But as Ghanim explained in his 2005

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Administrative Review Board hearing, “All my thoughts right now, all my thinking is about the future and not the past. I hope to build my future, to [re]build my life from the beginning. . . I do not hold any hatred or any hostility towards Americans or anybody. I am a peaceful person.”

In a letter dated November 24, 2006, Ghanim wrote to Doug shortly after their first meeting. “I give you my thanks and appreciation for the great efforts you have exerted on my behalf and that manifest the generosity and morals of the American people and their love for humanity, as well as their efforts to see justice and democracy realized.”

Ghanim was a model detainee. He cooperated every time he was interrogated—which he estimated to be well over one hundred times at Guantánamo. Eventually, the interrogation questions became more general in nature, and Ghanim began to suspect that he was no longer being used as a source of “actionable intelligence,” but rather as a source of information about Saudi culture and the Muslim religion. He joked that the Americans should be paying him for the cultural information he was providing them during the interrogation sessions. However, after more than five years in Guantánamo and shortly before our January meeting, Ghanim decided that he would no longer cooperate with the interrogators. He worried that by continuing to provide them with useful cultural information, he would be held longer. We warned Ghanim that he might suffer ramifications of some sort for his refusal to cooperate. He thanked us for our concern but told us firmly that his decision was final.

During the meeting, I am charged with explaining the American judicial system to Ghanim. Although I am skeptical as to how interested he will be in the topic, I arrive with a diagram of the various courts forming a pyramid leading up to the Supreme Court. When the time comes for me to do my bit, Ghanim leans forward in his chair to see the diagram. He takes notes as I discuss the relationship between the courts, the Congress, and the executive branch. It is clear that Ghanim

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understands the significance of what we are discussing and how it relates to his case. When Doug tells Ghanim that the Supreme Court will be hearing a case in the fall of 2007—a challenge to the Bush administration’s claim that prisoners at Guantánamo can be denied the constitutional right of *habeas corpus*, Ghanim politely interrupts and asks us to please show him where in the U.S. Constitution the right of *habeas* is provided for. He shuffles through his papers and pulls out a copy of the Constitution. Doug reaches for the document and stares at it blankly. I lean over and see that the U.S. Constitution has been translated into Arabic. Where did Ghanim get such a thing? He tells us that a fellow detainee’s attorney had the Constitution translated for him. Realizing his limitations, Doug passes the document to Mahmoud and together, they locate the appropriate provision for Ghanim to read. I have no doubt that Ghanim will later be pointing this out to his cellmates as he provides them with any useful tidbits of new information we may have shared with him in today’s meeting.

We break for lunch, and on the way out of the door, I ask the young guard if it is necessary for Ghanim’s legs to be shackled to the floor when we return for the afternoon session. His brow furrows as if he is truly perplexed by such a request. “Yes, procedure is that both of the detainee’s legs are shackled during meetings with their attorneys.” I wonder out loud, “What if only one leg is shackled for the afternoon session?” I immediately worry that my request is out of bounds and I have needlessly antagonized the guard. He responds, “I can try to process your request during the lunch break.” I thank him as he escorts us out of the camp to the table where three guards are stationed—charged with searching our belongings before we can board the van to go to lunch. That afternoon, Ghanim sits with one leg free to cross over the other if he so desires. This being Guantánamo, this minor concession feels like a major victory.

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Shortly after our meeting with Ghanim, Doug receives a letter from Ghanim. “I was very happy to meet you and Ms. Allison on the day of our meeting. You overwhelmed me with your generosity and kindness, and you resurrected in my heart a hope. The meeting was a meeting of friendship and very enjoyable. I was surprised by your efforts which you concern yourselves on my behalf in order to restore to me my freedom which was lost.”

In April 2007, Doug and Bernie return to Guantánamo to meet with Ghanim and our other two clients. While the others have each refused our visits on occasion—generally in connection with a hunger strike—Ghanim has never done so. With our other clients, there is always a sense of uncertainty going into the meetings; their mental or physical state can be dramatically different from the previous visit only three months earlier. They are held in Camps 5 and 6 where the conditions are much harsher than those in Camp 4 where Ghanim and the other compliant detainees reside. While Ghanim maintains hope that he will be returned home, our other clients fear that they are slowly losing their sanity, and they begin to doubt that they will ever be released.

Our meetings with Ghanim are consistently positive, and the visit in April is no exception. Ghanim listens as Doug and Bernie update him on the legal developments in the case as well as our efforts at applying diplomatic pressure on the Saudi government. As always, Ghanim listens intently and asks pointed questions. After the business portion of the meeting ends, the three men discuss their families. During this type of casual conversation, Ghanim does not need Mahmoud to translate. His English skills are good. Doug and Bernie share pictures of their wives, children, and grandchildren. Ghanim asks questions – what does your son do? How old are the grandchildren? It is a comfortable conversation among men who are forming a friendship. Doug and Bernie leave the meeting with “homework assignments” as Ghanim calls them—locate and send a prayer calendar, contact his brother Mohammed and tell him that Ghanim is well, send news of his home

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country, send copies of the documents we submitted to the Administrative Review Board on his behalf, and send any articles regarding the military commissions.

In July 2007, I return for my second trip to Guantánamo. I am nearly five months pregnant, just beginning to show, and I have not yet decided whether to share the news with our clients. On a day off before the client meetings, Doug and I sit in the lounge area of the Combined Bachelor's Quarters conferring with one of our interpreters. The phone rings at the front desk. "Mr. Douglas Spaulding?" Doug looks up from his notes. "Yes?" The man behind the desk says, "The phone is for you." We exchange confused expressions. Who could be calling? How did the caller know we'd be here in the lounge? "This is Doug Spaulding." "Yes, we have a meeting scheduled with ISN # 516 tomorrow." "Yes, we will be on the next ferry to the other side." "Okay, thank you." He hangs up the phone.

His expression is one of shock. "Ghanim is going to be released." I am stunned. Is it possible? Like kids trying to guess what presents would be under the Christmas tree, we had often discussed which of our clients would likely be the first to be released. We agreed that surely it would be Ghanim since he was the only one who was a citizen of a country that appeared interested in getting its countrymen out of Guantánamo. Given the lack of progress in the legal cases we had filed on our clients' behalf, we began to realize that diplomatic pressure was truly their best hope for release. Still, we are completely caught off guard and elated by the news. The fact that we happen to be in Guantánamo and will be able to share the news with Ghanim in person serves as the icing on the cake. We hurry back to our rooms to get ready as we mentally prepare to deliver the best possible news imaginable to our client.

Within an hour, we are on the ferry to the other side of the island. An escort will be there to pick us up. We will meet with Ghanim at two p.m. We will have exactly one hour to talk with

him. He does not know that he is going to be released. Because we happen to be on the island at this time, we will be permitted to give Ghanim the news of his release in person and discuss with him his rights with regard to the thirty-day notice order. When a detainee is released, if such an order has been entered in his case, the government must give thirty days notice of the release. The purpose is to allow for the attorneys to object to the release if the detainee is being sent to a country where he will likely be persecuted. In Ghanim's case, the government is releasing him to his home country of Saudi Arabia. It is likely that Ghanim will choose to waive the thirty-day notice provision in the hopes that he will be sent home sooner. We need to explain this to him and have him sign a waiver if this is what he decides to do. Although Ghanim's English is good, we know that he would prefer to have something of this nature explained in his native language. Mahmoud is translating for another team of attorneys, and there are no other Arabic translators available today. When our military escort picks us up at the ferry, we explain the situation to him. The escort tells us that he can put in a request for a military translator. We worry that Ghanim will not want to use someone who has possibly been involved in his interrogations, but we think it best to offer him the option. We are able to send word into Mahmoud that Ghanim is going to be released and that we will be given one hour to meet with him. Mahmoud immediately understands the situation and offers to translate for us for ten or fifteen minutes so we can cover the thirty-day notice issue in Ghanim's native language. If Ghanim is not comfortable using the military translator for the remainder of the meeting, we will communicate with him in English.

We anxiously watch the guards search our belongings as we wait to meet with Ghanim. Unlike previous meetings, we bring very little with us. Doug holds a copy of the thirty-day notice order. I have a notepad, but I doubt I will be taking notes in this meeting. We are finally brought in to meet Ghanim. He rises and smiles, always so happy to see us. Doug and Ghanim shake

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hands and embrace. Ghanim smiles and nods at me, and I do the same. He asks, “Where is my friend Mahmoud?” We tell him that Mahmoud is meeting with another detainee today, but that he will come in for a few minutes later in the meeting.

Doug explains that we can use one of the military interpreters if Ghanim wants. Ghanim asks which interpreter it is. We do not know his name, and we ask the escort to bring him in. The interpreter enters the room. Ghanim clearly recognizes him. He greets the interpreter in a friendly manner. They exchange a few words in Arabic, and the interpreter leaves. Ghanim tells us that he does not want to use this man as an interpreter for our meeting. We do not ask questions. We will continue the meeting in English.

We sit down and finally, Doug is able to deliver the news. He says slowly, “Ghanim, you are going to be released. You are going home to Saudi Arabia.” Ghanim puts his face in his hands.

He quickly removes them and reveals a stunned smile. “You are serious?”

“Yes, you are going home,” Doug says bubbling over with happiness as he says these words to his client—a man he has met only four times, but whom he has clearly developed a deep fondness for. I feel tears forming in my eyes as I watch Doug and Ghanim embrace again.

Ghanim turns to me and I smile through the tears, “Congratulations!” We are eager to tell Ghanim the story of how we received word that he was going to be released, but Mahmoud enters the room. He can tell that we have just given Ghanim the news. The two men embrace, and Mahmoud tells Ghanim that he is so happy for him. Mahmoud explains that he must get back to his meeting with another detainee, so we quickly discuss the thirty-day notice order with Ghanim. He agrees that we should waive notice. We tell him that we have no idea when he will be sent home, but we got the clear impression that it would be within the week. This is later confirmed

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when we leave the meeting and see the Red Cross waiting to go in and conduct an exit interview of sorts with our client.

The rest of the hour is spent discussing what Ghanim will do when he gets home. He is well informed about the Saudi repatriation program—the Saudi delegation met with him last time they visited Guantánamo. He was told that the Saudi government will help him find a wife, a job, and a home after he successfully completes the program. He is eager to get married and start a family.

Before we leave, Ghanim presents us with four beautiful notes. There is one for Doug, Bernie, me, and another attorney who worked on his case. Each note is bordered with intricately drawn vines and flowers that have been colored in. In preparing the notes of gratitude, it seems almost as if Ghanim knew that his release was imminent.

Dear Allison,

I thank you for all that you have done for me. It is a big support to me in this ordeal. I will never forget it for the rest of my life. I hope you have a nice life full of success.

Sincerely,

Ghanim al Harbi

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Only a few days after our meeting with him, Ghanim al Harbi returned home to Saudi Arabia.

Eleven months before his release, we wrote in an Administrative Review Board submission, “It is clear that Mr. al Harbi does not pose a continuing threat to the United States or its allies. If he were released, he would do one thing—go home, try to pick up the pieces of his life after five long grueling years in custody, and simply live in peace.”

After Ghanim was released, we refrained from contacting him because we heard rumors that the Saudi government told the former detainees to cut all ties with their American attorneys. But eventually it becomes apparent that other attorneys are speaking with their released Saudi clients. Six months after his release, we send an email to Ghanim’s brother Mohammed to see if we can get any information about how Ghanim is doing now that he is free. Mohammed responds and within days, a telephone call is arranged. With Mahmoud’s assistance, Doug and Ghanim speak to each other. Ghanim is now married and his life is returning to normal. He now has a mobile phone and an email address, and we can contact him whenever we want. I immediately send an email to Ghanim telling him that I am so happy to hear that he is doing well. I attach a picture of my new son. To my delight, Ghanim responds within hours, congratulating me on the birth of my son and attaching to his email a picture of himself dressed in a long dark robe with his brother standing beside him, both men smiling and proud. He also attaches pictures of the feast his mother prepared for the party she threw in his honor upon his return and one showing five beaming relatives seated on a couch in a comfortable living room— attendees at the welcome home party for Ghanim. He wishes me and my husband and new baby “a happy and quiet life” and he signs off, “Faithful, Ghanim al Harbi”.

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The intricately decorated note from Ghanim is now framed and hanging above my desk. After eight years of law practice, my work on this case is the work I am most proud of, and Ghanim's note of gratitude serves as a succinct inspiration to continue working for the release of our other two clients. Admittedly, it is not at all clear that anything we did directly resulted in Ghanim's release from Guantánamo. A more probable explanation is that the Saudis are gradually working to get their citizens returned home and that Ghanim's name was next on their list. Despite his ordeal, Ghanim truly believes that America will find its way back to justice and that the ideals we purport to hold dear will be restored. As I prepare for my next trip to Guantánamo to meet with our remaining two clients, I pray that Ghanim al Harbi is right.