

Cleared for Transfer

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1 David McColgin and I arrived in Kabul in the last week of March 2007. Having recently learned that four of our clients at Guantánamo had been “cleared for transfer” (although they each still bore the “enemy combatant” designation), we were puzzled about the reason for any delay in transferring our Afghan client. He had not had an ARB hearing for two years, so it was easy to infer that he had been cleared for transfer for that period of time. Our plan in Kabul was to investigate our innocence claim, to find out why our client had not been transferred to Afghanistan with the hope that the transfer might be expedited, and to meet with members of the local press whom we hoped would build pressure on the Afghan government to push for the return of the “cleared” Afghans. For a week we would meet with our clients family and with any government official who would see us. A UK organization, Global Strategies Group, provided us with lodging, sustenance, and an extraordinary “fixer” named Shakoor. We also had enlisted the services of the Afghan Human Rights Organization and its director, Lal Gul.

On our third day in Kabul we sat in a book-lined office, befitting the reputation of Sibghatullah Mojaddedi as a Sufi scholar. When the opportunity for an audience with Mojaddedi arose, we quickly said yes. He had briefly been the President of Afghanistan in 1992 (the only person in modern Afghan history to have voluntarily surrendered leadership of the country), and he had been instrumental in the writing of the current Constitution. At the time of our meeting, he held two important posts. He was the elected leader of the upper house, the Meshrano Jirga, of the parliament, and he had been appointed by President Karzai to chair the National Peace and Reconciliation Commission. He had a reputation as a mediator not unlike that of Jimmy Carter. His was the largest office we were to see in Kabul, but it was packed with a dozen assistants who were not introduced and did not speak. There was also a television film crew with lights and the camera rolling. I felt uneasy about the situation. What had we gotten ourselves into?

After the customary tea was set before us, Lal Gul, who had arranged the audience, launched into a colloquy with Mojaddedi in Dari, while our interpreter sat mute next to me. I had been nervous about the AHRO director’s agenda and anxious about how we were going to convince Mojaddedi that our client should be brought back to Afghanistan and released. I leaned close to the interpreter and asked what was being discussed. The eighty-year-old Mojaddedi heard my whispered question. Imposing, with his long white beard and weathered face, he looked at me and in unaccented, fluent English began to address me. He knew our client. He knew his story. He expressed his belief that our client was innocent, one of the Afghans, spirited into the custody of the United States military on the false word of a villager who coveted the promised bounty. The anxiety melted away, and I looked at David with a raised eyebrow that was meant to signal, “Okay, this works.” I knew right then that the Afghans were not the cause of the delay in Muhammed’s transfer. Mojaddedi promised his assistance in gaining his release.

Seven later Muhammed was transferred to the new American-built wing at the Soviet-era Pul-e-Charkhi prison on the eastern outskirts of Kabul. We never heard directly from Mojaddedi again, but persistent phone calls to his staff and various other officials in Kabul over the following five months ultimately brought the call from Kabul that Muhammed had been released to his village.