

Gordon S. Woodward, Esq.

Freedom to Choose

I offered to represent a young man imprisoned at Guantánamo Bay. Toward this end, I met with him twice; however, after our second meeting he asked me to stop and to take no further action on his behalf.

After six years he had a dim view of our justice system. As far as he was concerned lawyers could do nothing for him. The American justice system was hypocritical and corrupt. He felt that by participating in this system he would only lend credibility to the charade—that participation merely perpetuated the myth of American justice.

To say his story is tragic does not really do it justice. He did not want to go to Afghanistan. He went with his family because his father made the decision for them. He went because he was told to go. Unfortunately, within two months of arriving al Qaeda attacked the United States; not long thereafter Kabul was under attack and the family fled to Pakistan.

This young man was a foreigner—an Arab—in a place where Arabs were being hunted down and sold for bounties, and somewhere along the way locals turned him and his father over to Pakistani authorities.

His treatment on the way to Guantánamo was brutal, including beatings, threatened electrical shocks, sleep deprivation, temperature extremes, and isolation. It is difficult to say whether, in his view, the circumstances were any better in Guantánamo. It is safe to say, however, that conditions remained oppressive, coercive and bleak.

I argued that he should not give up on the legal system. Even if he did not want to fight for justice, he could just let me keep his case open. The courts might rule in his favor, and if they did, it would be important for him to have access to a lawyer.

He responded by saying: you can't tell me what is right for me—I'm the one who is living this nightmare.

What do you do in this situation as an attorney? It is difficult to stop representing someone when you firmly believe that to stop is a bad idea. Some attorneys have argued that a client's decision to refuse help cannot be made rationally in the environment of Guantánamo because the government has specifically pursued a strategy of breaking prisoners down, creating a climate of despondency and hopelessness—a climate in which the prisoner feels he has no power, is helpless and dependant upon his captors. Perhaps this young man's decision is no more than the intended consequence of the government's interrogation program. Perhaps the government has succeeded in convincing him that seeking justice is futile.

Despite these compelling arguments, it feels hypocritical to advocate for justice and dignity yet refuse to honor a client's choice. Arguably, we are little better than the system we oppose if we refuse our clients the freedom to chose whether and how to advocate for themselves.

There is no easy answer. I wished him luck as I left him for the last time. Whatever happens, he will need it.