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I often give speeches to groups that are interested in hearing about my experiences representing two men at Guantanamo. Last week I spoke to a group of high school students in the Chicago area. I had spoken to students from this same school a few years ago and now some of the students were getting ready to graduate and they wanted an update. Unfortunately I did not have anything heartening to say. My clients, who should have been released years ago, are still there. After one year of the Obama administration the Justice Department is still in a shambles and showing no signs of improving. But I was at least glad for the opportunity to remind these students, before they headed off to college or wherever else they are going, that there is still much that needs to be done if our country is going to remain a constitutional republic.

I started out my talk explaining to the students the driving force that led me in 2005 to agree to represent two men at Guantanamo. You see, I wasn't planning on taking on the representation of someone at Guantanamo when I signed up to attend a bar association luncheon in 2005. I just thought it would be interesting to hear about the legal battles involved in the Guantanamo litigation. Anyway, it doesn't really matter because I actually missed the luncheon. I was home sick and when the luncheon reminder popped up on my laptop that morning I just deleted it, thinking I will learn about Guantanamo some other day. Little did I know that that day would come so soon. A few days after the missed luncheon I received an email thanking me for my attendance (!) and reminding me that there were still several hundred men without attorneys at Guantanamo. A few weeks after that email I volunteered to represent first one man at Guantanamo and later a second man. As they say, the rest is history.

However, the history has not been a pleasant one. I of course knew when I saw that email that I had no choice; I had to represent a Guantanamo prisoner. As I explained to the students, I took an oath when I became a lawyer (the same oath all lawyers must take) promising to defend the Constitution of the United States. I and the other attorneys representing men at Guantanamo take that oath very seriously (unlike attorneys Yoo, Bradbury and Bybee to name but a few). Our Constitution is more than an important document; it has been our country's roadmap for a somewhat free and just society. When we start to veer off the road it is incumbent on lawyers (and judges) to step in and try to uphold our system of law, because if we do not, no one will. So I proudly volunteered to do my part to maintain the rule of law and I took on the representation

of a man at Guantanamo.

As I reminded the students, I did not pick which clients would be mine. I volunteered to represent a man at Guantanamo that wanted an attorney. For all I knew my client could have turned out to be the “worst of the worst.” But that did not matter to me because this is not about guilt or innocence. You do not even get to guilt or innocence until you have been charged with something and none of the men at Guantanamo have been charged with anything. What I volunteered to do was to get a habeas hearing for my clients. Habeas Corpus literally means “you have the body.” A quaint phrase that perhaps can best be described as a summons to the jail keeper (in this case the Pentagon) ordering the jail keeper to bring the person being held before a judge and explain to the judge why the person is being held. The judge then determines whether or not the jailer has the lawful authority to hold that person. If the judge determines that the jailer does have the legal authority the person will remain in custody and be tried in a court of law. If the Judge determines that there is no legal basis for holding the person then the person must be released from custody. The whole purpose of habeas corpus is to make sure that people are not rounded up arbitrarily and held indefinitely without charges filed against them. So when you hear habeas corpus described as the cornerstone of our judicial system you should think of it as the bracing wall for our judicial system: without habeas corpus our legal structure will fall apart.

I spent the next 20 minutes or so of my speech discussing my clients: men who were swept up following an unconscionable policy of offering “bounties” to anyone who turned over “terrorists and murderers,” no questions asked and no proof required. Men who have been held in the cruel confines of Guantanamo year after year for more than eight years with no charges filed against them. Men who have not seen or spoken to their wives and children all these years. Men, who despite the torture and humiliation still hold no ill will toward the American people.

I ended my talk discussing the irony of the Bush administration realizing early on that it was holding men who were wrongly picked up and over time they released more than two-thirds of the men quietly to their home countries, usually in the middle of the night. These men, who had been physically and psychologically tortured because we mistakenly thought they were terrorists, were sent home to try to rebuild their lives with no apology from us, and no help, financial or otherwise. By the time Obama became president the Bush administration had released more than 500 of the men that had been held at Guantanamo. Of the approximately 240 men remaining at Guantanamo when Obama took office the Obama administration slowly determined that most of those men should also be released, without further ado. Unfortunately, and also without further ado, most of these men, including my clients, continue to languish at Guantanamo, while our ignorant politicians do their best to frighten and confuse the American people and most of our judges continue to refuse to give these men their habeas hearings.

I always try to leave time for questions. Like so many of my audiences the students had quietly listened to my talk with looks of concern on their young faces. It took a minute but then the questions started. In the back of the auditorium there was a young man who started to raise his hand a few times but each time put it down before I could call on him. Finally, he held his hand up high to get my attention and when I pointed to him he stood up, looked at me with an anguished expression on his face, and he asked: "Doesn't this just piss you off? I mean, I am listening to you and I am getting really pissed off? ...Are you pissed off?"

Although there were a few chuckles everyone knew this was a serious question. And then the bell rang and it was time for the students to go on to their classes. But no one moved. I looked at the young man and then at the other students and I answered slowly, "Yes.....Yes, I am pissed off.... In fact, I am more pissed off than you could ever imagine."

If there had been more time I would have explained to the students that I am not pissed off just because my two innocent clients are still sitting in that hellhole we call Guantanamo. I am pissed off because my country continues to think it is ok to torture people; that my country thinks it is ok to round up people and put them in prison without ever charging them with wrongdoing; I am pissed off that Karl Rove has been replaced by Rahm Emanuel; that our country does not care if we abandon our civil law system for military law; that lawyers who fight to maintain our Constitution are branded terrorists; that my country is not bringing our war criminals to justice because we need to "look forward;" that we are spending our country's hard earned money bailing out banks and making wars. I am pissed off that Obama did not tell us his whole slogan: "Yes we can... but we won't." I am pissed off every day when I get an email from the Pentagon announcing our latest casualties. I am pissed off at our feckless judges (but not 5/9s of our Supreme Court) who are afraid of the Guantanamo cases. I am pissed off at the American people who continue to allow themselves to be whipped into a frenzy of fear. I am pissed off that my country is falling apart and the American people only seem to care about stupid television shows. Yes, I am pissed off and you should be too.

In fact, if you are not pissed off you are not paying attention....and that pisses me off too.