

Lawyer's efforts free detainee As Afghan client goes home, Austin attorney seeks new case

December 28, 2006 □
Edition: Final
Page A01

By Chuck Lindell
American-Statesman Staff

The news arrived in cloak-and-dagger fashion, but for Austin lawyer Dicky Grigg, it was welcome nonetheless. Mohammad Akhtiar, his Afghan client who was held as an enemy combatant for 3 1/2 years at the U.S. Naval Station at Guantánamo Bay, Cuba, was back in his homeland and traveling toward a reunion with his wife and nine children. "One, I'm very pleased and excited that he's released and back to his family," Grigg said. "But then, you have to consider that 3 1/2 years were taken out of his life. I'm glad he's home, but it makes you frustrated."

Grigg was among a loose-knit group of lawyers who represented, at no charge, many of the imprisoned enemy combatants in the belief that detention without review by a civilian court violated a basic principle of the U.S. system of justice.

The "Guantánamo Bar Association" clashed with the Bush administration over where to draw the line between combating terrorism and safeguarding constitutional rights — producing a U.S. Supreme Court ruling in June that allowed detainees to petition for writs of habeas corpus, which challenge the legality of detentions, in federal court.

The Republican-led Congress, saying classified information could be placed at risk in federal court proceedings, followed with legislation stripping federal courts of authority to hear cases from Guantánamo. Detainee cases instead will be heard by military commissions, where an officer acts as judge and at least three officers serve as jurors.

Grigg's first inkling that he and his client were no longer part of the ongoing legal battle came in a cryptic Nov. 15 e-mail from a U.S. Justice Department lawyer.

Protected information on Akhtiar's case had been filed with a federal court in Washington, D.C., Grigg was told. After returning a signed verification that he wouldn't disclose its contents, Grigg was provided with a notice saying Akhtiar would be returned to Afghanistan in about 30 days for whatever action that country deemed appropriate. No further explanation was given for his release.

Grigg also received permission to discuss the notice with Akhtiar — accused of launching a rocket attack against a U.S. base in Afghanistan in 2003 — to see if he would fight the transfer.

The Dec. 13 telephone call was monitored by a government lawyer to make sure no classified information was discussed in the three-way conversation among Grigg, Akhtiar and a Virginia translator who spoke the Pashto language.

Grigg, who did some checking and learned that every transferred detainee had been released by the Afghan government, got the answer he was expecting.

"He definitely wanted to go home," Grigg said. "But since it was protected information, I could not tell anyone, even his family, until the government made it public."

Grigg heard no more until Dec. 16 media reports from Kabul indicated that seven men had been transferred from Guantánamo and released by the Afghan government. He asked the Justice Department if Akhtiar was among the seven. In response, he received permission to discuss Akhtiar's release.

A quick e-mail to Akhtiar's relatives revealed that the Afghan government had already informed them of Akhtiar's arrival and freedom.

"They were en route to get him. Then they were taking him to Pakistan," where his wife and children are living in a refugee camp, Grigg said.

Akhtiar was among 17 Guantánamo detainees transferred Dec. 16 to five nations based on recommendations from U.S. military review boards, the Defense Department said. This year, 114 detainees have been returned to their home nations, leaving 395 still in custody at Guantánamo.

Another 85 detainees are eligible for transfer, Pentagon records show.

Grigg, a personal injury lawyer who typically sues insurance companies, has yet to hear from Akhtiar, whom he met only once during an intense visit to Guantánamo in March.

Akhtiar, 56 at the time, was seated in a folding chair and chained to the floor. Grigg had to remove all staples and paper clips from his papers before the meeting, and his notes were sealed and sent to a secure court facility in Virginia, where Grigg had to travel to review the classified information compiled about his client. Details of his conversation with Akhtiar remain classified.

Grigg, who said working for Akhtiar was the most moving experience of his 33-year career, is ready for more.

He already has a security clearance obtained after an FBI investigation. And he has been schooled in habeas law by the Center for Constitutional Rights, a New York nonprofit group that is coordinating representation for the detainees.

"I notified the Center for Constitutional Rights that if they got another one, I will take it. I think the more pressure you

get, the more you get done," he said.

clindell@statesman.com, 912-2569