

As you Teach Us, as you Reach So Us, as you
So Beseech Us!

With all of your fine worth . . .
Showing us all, how Strength In Honor in
your fine life comes first!

And if I had a son, I would but pray he could
be like you this one!

Who lives and dies, with tears in eyes . . .
By such a fine code, of Strength In Honor
. . . all in hearts which lie!

Kentucky Strong, may you Trampus live
long!

As we watch your life's song . . .
Of Strength In Honor!

RESPONSE ON BEHALF OF FELLOWS
OF THE AMERICAN COLLEGE TRIAL
LAWYERS WHO REPRESENTED
DETAINEES IN GUANTÁNAMO

HON. BILL DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 2010

Mr. DELAHUNT. Madam Speaker, I rise before you today so that my colleagues in the House of Representatives can join me in recognizing Mr. Michael Mone and his son, Mr. Michael Mone Jr.—two Massachusetts lawyers who ceaselessly fight for human rights and justice among detainees at Guantánamo Bay. I stand before you today to read to you a speech presented by Mr. Mone Sr. at this past September's American College of Trial Lawyers meeting. This discourse, written from Mr. Mone's perspective, recounts the compelling experience of his son, who selflessly represented a wrongfully accused and detained Uzbek man. The speech is as follows:

I want to thank the College for honoring those Fellows who represented Guantánamo detainees, and in particular, I want to thank Mike Cooper, who encouraged the Access to Justice Committee to become involved in securing detainee representation. I attended the spring meeting in Palm Springs when the subject was first discussed, and I came away from that meeting determined to take on a detainee's case. I want to thank the College for its encouragement and the moral support that it provided to those Fellows as they undertook to uphold the core values of the American College of Trial Lawyers—the right to counsel, a fair and independent trial to challenge their detention, and the Rule of Law.

I want to make it clear that I stand here in a representative capacity in that I am speaking for the Fellows who are here on the stage with me, for all of those Fellows who can't be here today who undertook representation of detainees, and to hopefully represent lawyers all over the country, in large firms and small firms, Republicans and Democrats, who answered the call to provide representation in this very unpopular cause. I also am here in a representative capacity because much of the real work of our client's case was done by my son, Michael, who is also my law partner, so in these remarks, when I say that we did something, in all probability, it means that Michael did something.

Too often the "detainees" are treated as a group like "illegal immigrants" as if they are all alike, but they are not. They were many different individuals who, under different circumstances, were confined at Guantánamo. Some, like our client, were simply at the

wrong place at the wrong time, and others were undoubtedly waging war against the United States. But all were entitled to the benefit of our Constitutional protections. Each detainee has a different story, but we represented one man, Oybek Jabbarov, and I want to tell you Oybek's story.

In 2001, Oybek Jabbarov was in his early 20s; he was a refugee from Uzbekistan, living in Afghanistan along with his expectant wife and his one-year old son. After being discharged from compulsory service in Uzbek army in 1998, Oybek could not find a job and like so many of his countrymen, he left Uzbekistan to try and find work elsewhere. Eventually, he ended up in northern Afghanistan. He was living amongst other ethnic Uzbeks, supporting himself and his family by selling chickens when the U.S. invaded to bring down the Taliban Government and to capture the leaders of Al-Qaeda, following the unspeakable September 11th attack on this country. You must understand that under the Taliban, Afghanistan, in essence, had no government, no borders, no checkpoints, and no one was even asked for a passport, and thus, it became a refuge for people from all over central Asia, such as Oybek. As we now know, Afghanistan is a tribal society and the only protection afforded to most persons in Afghanistan is the protection of their family and tribe, without which one is extremely vulnerable.

When Oybek made the mistake of accepting a ride from Northern Alliance soldiers, the U.S. was offering a bounty for "foreign fighters," who were supporting the Taliban in the war against the U.S. and its coalition allies. Brochures in the native languages of Afghanistan were widely distributed by the U.S. offering bounties for "terrorists" who were turned over to the U.S. authorities. One of these leaflets said "get wealth and power beyond your dreams; rid Afghanistan of murdering terrorists, you can receive millions of dollars by helping to catch Al-Qaeda and Taliban murderers. This is enough money to take care of your family, your village, and your tribe for the rest of your life." The Northern alliance soldiers, who offered Oybek a ride, thus, had a powerful incentive to consider him a "foreign fighter" to collect the bounty and for that reason Oybek was turned over to the U.S. forces at the Bagram Air Force Base in December 2001. He was held in U.S. custody at the Bagram Air Force Base, and then at a facility in Kandahar, until he was transferred to Guantánamo in the spring of 2002, despite assurances from U.S. civilian interrogators in Afghanistan that "we're trying to find Arabs; don't worry, we'll try to get you out." During his time in the US custody, Oybek, like many of the others, underwent "enhanced interrogation." I am not here to debate the definition of torture, but if it was being done to you, you would know it was torture. Following transfer to Guantánamo, Oybek was held for more than seven years where a substantial part of his time, as with most of the others, was in virtual solitary confinement.

In 2006, we were assigned to Oybek's case by the Center for Constitutional Rights that served as a clearing house to match counsel and detainees and Michael and I started our representation of Oybek Jabbarov. It took some time because of various U.S. court cases and congressional action restricting the Writ of Habeas Corpus for us to obtain the

classified documents which purportedly laid out the basis for Oybek's capture and continued detention. Before we ever had a chance to meet with Oybek, having reviewed that material, it was apparent to us that the case against Oybek was thin or nonexistent and Michael was armed with that information when he was finally allowed to visit Oybek in August of 2007. When I first discussed with Michael the idea of taking on a Guantánamo detainee, he said "so everyone else is going to get a goat farmer, but what happens if we end up with a real terrorist?" Before he visited Guantánamo, based upon the information we had, it was unlikely Oybek was a terrorist, and so when Michael returned from Guantánamo, the first thing he told me was "he's more Borat than he is Khalid Sheikh Mohamed." During the first eight trips to Cuba, he first met Oybek, who had been at Guantánamo for almost five years. Oybek presented as a gentle young man, with no apparent bitterness towards the U.S. Government that was detaining him, but was desperate for freedom. Unlike many other detainees, Oybek learned to speak English from listening to the guards and he was able to communicate with us directly without the necessity of a translator. His English, which I joked he spoke with a slight southern accent, greatly enhanced our ability to eventually relocate him.

In 2007, shortly before Michael's first meeting with Oybek, the Bush Administration cleared him for transfer, which in our view meant that they had determined that he did not constitute a threat to the U.S., a fact that we always knew to be true.

Following the Administration's determination that he could be transferred, we were confronted with the major problem in our representation of Oybek because he could not go back to Uzbekistan where he, in all likelihood, would have been imprisoned or killed. Uzbekistan is on our State Department's list of countries with grave human rights issues. The U.S. authorities fully agreed that he could not be returned to his native country, but had no other options. Even a successful Habeas Corpus hearing, which was years away, would not have accomplished his release from Guantánamo. As Michael said, we don't have a legal problem; we have a political and diplomatic problem obtaining his release to a third country, and we won't get much help from our Government. We had to convince a third country that, notwithstanding the U.S. having taken the position that the people at Guantánamo were "the worst of the worst," that they should offer asylum in circumstances where the U.S. was unwilling to do so. Because we knew that we would get little help from our government, Michael flew to Europe and met with human rights groups in Germany, Denmark, and Ireland in order to identify a country where we had some hope that Oybek would be accepted. Following his meetings in Dublin with Amnesty International, and representatives of Human Rights Watch, we focused on Ireland.

Why Ireland? We had four reasons. First, he spoke English, and we knew that would give him a tremendous head-start in terms of rebuilding his life. Secondly, Ireland remains, in part, an agriculture country, which was Oybek's background. We also knew that Ireland had a long tradition of the recognition of human rights, and lastly, we thought the Irish

government might be open to accepting a detainee for resettlement as a way to improve relations with the United States.

In the spring of 2008, Michael and I went to Guantánamo and talked with Oybek about Ireland and about our hope that we could secure his release there. He wanted to go to a free, democratic country and Ireland certainly qualified, but he did not even know where Ireland was and I wound up drawing a free-hand map attempting to locate Ireland in Western Europe. On our return from Guantánamo, Michael made additional visits to Ireland, and single handedly started a human rights campaign on behalf of Oybek. He talked to ministers in the Irish Government, who expressed interest in helping us, but had great concerns of political ramifications of taking a Guantánamo detainee. He had members of the Dail, Ireland's parliament, raise questions to the Government in debate and made Oybek's case a prominent public issue. Past President Ralph Lancaster kindly put me in contact with his friend Former Senator George Mitchell, who the Irish revere because of his work on bringing peace to Northern Ireland. Senator Mitchell hand delivered a letter to the Irish Foreign Minister that Michael had written asking the Irish government to consider accepting Oybek for resettlement. One of our honorary Fellows, the Former President of Ireland, Mary Robinson, also spoke up in favor of Ireland's accepting Oybek. Senator Kennedy, Senator KERRY, and Congressman BILL DELAHUNT directly contacted the Irish government on Oybek's behalf. Many people from Boston visit Ireland and Michael had established such a presence there, that people returning to Boston called and told me that they had heard Michael on Irish radio discussing Ireland's role in helping to close Guantánamo.

By the end of 2008, with the change of administration in Washington, we had made a lot of progress, but then came the spring of our despair as the Obama Administration came into office and Congress prohibited any Guantánamo detainee from being brought to the U.S., which made it much more difficult to convince a third country to grant asylum to men to whom the U.S. would not accept. In the spring of 2009, with no progress, despair set in at Guantánamo and many of the detainees, including Oybek, began a hunger strike, which caused me great concern that a hunger strike would affect Ireland's interest in Oybek. My son, however pointed out that if anyone understood the despair of confinement leading to a hunger strike, it was the Irish. By late summer of 2009, it was clear that the Irish had not given up on Oybek and were prepared to grant asylum, not only to Oybek, but to one of the other four Uzbeks because they were committed to taking two detainees, not just one. Oybek and the other Uzbek, who we referred to as the "Uzbek to be named later," were eventually put on a U.S. military airplane at Guantánamo and flown into Dublin where they arrived over a year ago.

When the plane with Oybek and Shakhrukh, the other Uzbek, landed in Ireland, they were shackled—hand and foot. When the representative of the Irish government got on the U.S. military plane and was told by the officer in charge that the guards were ready to escort Oybek and Shakhrukh off the plane, the Irishman said: "These men are not going anywhere until you remove the shackles and handcuffs. When they step off this plane onto Irish soil, they will do so as free men."

There was one last item left undone. During the course of our representation, Michael had tried, without success, to locate Oybek's wife and children. But without legal travel documents and afraid to return to Uzbekistan, they had lived as refugees in Central Asia since Oybek's disappearance. One day, Oybek's family was listening to the Uzbek service on Radio Free Europe/Radio Liberty and heard Michael being interviewed about his efforts to get Oybek resettled in Ireland. Eventually, Michael was put in touch with people in Pakistan and Oybek's wife and two children were located in a refugee camp in Pakistan. Michael then worked with the Irish Government to bring his wife and his two children, one of whom he had never seen, to Ireland. This work is not over. Detainees remain at Guantánamo despite the fact that in nearly 70 percent of the cases that have been heard by Federal Judges, the writ of habeas corpus has been granted. We will continue to fight for human justice. Michael and I have filed an Appearance in another detainee's case and look forward to his eventual release.

Why did lawyers, including the Fellows of the College, undertake the representation of these men in a very unpopular cause? They did it because it is part of their DNA. It is the reason many of them went to law school. Who among you has not imagined yourself as Atticus Finch standing in that hot Alabama courtroom defending an innocent man? Every state in this country has a long tradition of lawyers providing pro bono representation in unpopular causes. When Michael and I each passed the bar, we signed a book that has the name of every lawyer who has ever practiced in Massachusetts. That roll contains the names of the lawyers who represented Sacco & Vanzetti. It has the name of Benjamin Curtis, a Massachusetts lawyer and member of the Supreme Court of the United States, who dissented in the Dred Scott case and then resigned as a matter of principle. Curtis returned to Washington in 1868 to represent the very unpopular President, Andrew Johnson, in the impeachment trial before the U.S. Senate. We all know the story of John Adams, who defended the British soldiers in the Boston Massacre, but his son, John Quincy Adams, who, after he had been President, represented the African slaves on the Spanish slave ship, the *La Amistad*, is also on that roll of attorneys. This is not just a Massachusetts tradition; it is the fabric of what it means to be an American lawyer. All of you have or will have an opportunity at some point in your career to undertake an unpopular representation. I would urge all of you to seize that opportunity because you will never forget it.

John Adams said that of all the things he did, which included not only the presidency, but being the driving force behind the Declaration of Independence, that the representation of the British soldiers was the best service that he had ever done for his country. Each of us standing here today would tell you that this is the best thing that we have ever done. Thank you and God bless the Constitution of the United States.

IN RECOGNITION OF ALBERT CIMPORMAN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 2010

Mr. KUCINICH. Madam Speaker, I rise today to congratulate Mr. Albert Cimperman on his induction into the Legion of Honor by the President of the French Republic. The most prestigious award that France bestows, the medal of the Knight of the Legion of Honor is reserved for soldiers and civilians who have demonstrated remarkable talent and character. Mr. Cimperman fought bravely in World War II, displaying courage and discipline in some of the most grueling battles.

Napoleon Bonaparte conferred the first medals of honor on the civil servants of the French Republic. These first medals realized his vision of a merit based award that would spur soldiers and civilians alike to pursue endeavors that would do credit to their country. The Legion of Honor is the only remaining national order remaining in France.

Mr. Cimperman fought bravely in nine campaigns during World War II, including the battles of Normandy and Ardennes. He has received six awards from the United States government for his efforts, including the Bronze Star Medal with three Oak Leaf Clusters. Today, Albert and his wife of 65 years, Zora, are active Parma residents. They were awarded the Joined Hearts in Giving Award in 2007 for their dedication to community volunteer work, and continue to teach a weekly line-dancing class at the Donna Smallwood Activities Center in Parma.

Madam Speaker and colleagues, please join me in thanking Mr. Albert Cimperman for his service. Without the sacrifice and perseverance of soldiers like him, the Allied Forces could not have prevailed and we would live in a much crueler, culturally impoverished, and oppressive world. It is my honor and my pleasure to congratulate Mr. Cimperman on his great accomplishment.

A TRIBUTE IN HONOR OF THE LIFE OF IRVING GELLERT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 2010

Ms. ESHOO. Madam Speaker, I rise today to honor the extraordinary life of Irv Gellert, a dear friend who passed away on November 1, 2010 at his home in Los Angeles, California.

Irv had a great sense of joie de vivre and lived his life to the fullest. He was born in January of 1917 and grew up in the rural coal mining region of Pennsylvania, where his athletic abilities and interest in sports led him to become an all-star high school football player. After attending Temple University in Philadelphia, Irv enlisted in the Army and served his country with honor and pride during World War II. When the war was over and his service ended, he enrolled in New York University Law School and graduated with a law degree in 1949.

Not long after graduating from law school, Irv married his beloved wife Harriet. In 1954,