

Pearl of the Antilles

The elephant in Guantanamo's living room gets 4200 calories a day and a Koran

By Emily Witt

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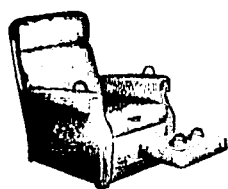
East Caravella. It sounds like a meadow in Narnia but looks like a suburb of Phoenix. East Caravella is a complex of townhouses situated along a curved road. The streets look newly paved, but the lawns are uniformly dead. Fifteen dollars a night here gets you a two-level apartment to share with a German Public Radio reporter, a back-yard patio overlooking a neatly manicured slope of brown grass, and a fully equipped kitchen.



Brian Stauffer

The bedspreads match the window dressings. Dried floral centerpieces and plastic plants adorn tables and corners. Each townhouse has three televisions with cable, fake wood floors, and toiletries (Gilchrist & Soames; Est. London, England). Central air conditioning purrs cool breezes over pillow-bedecked beds. In the bathroom, a paper strip labeled "Sanitized for your protection" is attached to the toilet seat like the ribbon on a gift-wrapped present.

Also under the pretense of protecting you, just a few miles away, the government has imprisoned 460 men in metal cages, communal barracks, and concrete cells. Surrounded by concentric chainlink fences topped with concertina wire, they fall asleep under dimmed fluorescent lights. They are dressed in orange, beige, or white: the Guantanamo Bay color spectrum that distinguishes bad behavior from compliance with prison rules. Rotating shifts of 300 vigilant guards in desert camouflage keep watch.



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In recent weeks, this epicenter of the war on terrorism, 400 miles southeast of Miami, has reached a crisis point. As the camp's population has dwindled from more than 700 to about 460 detainees, frustration and anger among those left behind appears to have increased. The morning of May 18, three detainees attempted suicide by ingesting large doses of anti-anxiety medicine. That evening, a fourth staged a suicide ruse in a communal barrack. When guards entered the bay to investigate, ten detainees wielding improvised weapons of fan blades and broken fluorescent lights pounced en masse. Just a few days ago, a Guantanamo spokesman announced 89 prisoners were on a hunger strike.



Brian Stauffer

The whole thing was planned in advance, said the military, from the hoarding of pills to refusal of meals. It was just an "attention-getting" tactic — ostensibly Al Qaeda attempting to eclipse the American public's hatred of terrorists with something like worried concern.

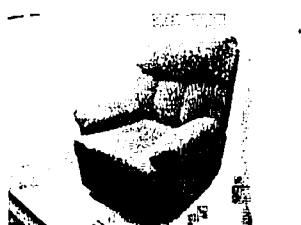
It's difficult to know whether the detainees are worthy of concern. The evidence



The military commissions room.



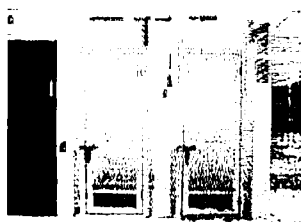
Entrance to Camp 4, where detainees live in communal barracks.



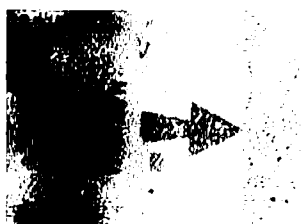
The interrogation chair.



Entrance to Camp Delta



Detainee showers in Camp 2.



Arrow toward Mecca in recreation yard.

against them is often classified — to them and to the rest of us. Even for those found innocent of war crimes charges, the future is detention, perhaps indefinitely.

The United Nations and many of America's closest allies — including the United Kingdom — have called for Guantanamo's closure, complaining of inhumane treatment and the suspension of fundamental legal rights. But you'd never know it from visiting the base. If ten days at the camp teaches you anything, it's a lesson on acting like nothing is wrong.

If you hear anything or see anything that hasn't been heard or seen before, they screwed up.

— Carol Rosenberg, who has covered Gitmo for the *Miami Herald* since before the detention center opened in 2002

The most important things are what you won't be seeing. The most important thing to remember is that nobody who has spoken to the detainees can speak publicly about it.

— Katherine Newell-Bierman, an attorney with Human Rights Watch

The food is good, the bedrooms are clean, and the health care is very good. There is a library full of Islamic books, science books, and literature.... Sport, reading, and praying, all of these options are not mandatory for everyone, it is up to the person.

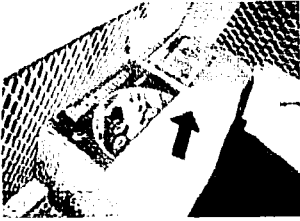
— Unattributed "contrasting detainee comment" from the Joint Task Force press kit

The media tour of the detention camp at Guantanamo Bay is a near-weekly event. Dozens if not hundreds of reporters have visited the base, along with VIPs like U.S. senators and governors, foreign diplomats, even Miami Police Chief John Timoney. It's a two-day excursion that covers the basics of detention and the various ways prisoners' cases are reviewed.

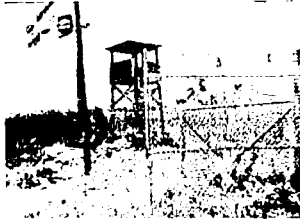
"We are making a conscious effort to reach out to all the media so that you can see what's happening here — that it's good, that it's not all the horror stories you hear out there," said Army Brig. Gen. Edward Leacock, deputy commander of detention operations, in an introduction to reporters May 10.

The tour begins with Camp Delta. The sprawling complex contains five detention camps and a sixth presently under construction. It's located a fifteen-minute drive from East Caravella, through a hilly cacti-filled landscape. Iguanas waddle along the side of the road, and vultures gaze down from telephone poles. Four enormous windmills — futuristic, three-prong propellers — rotate slowly atop a distant ridge. Satellite dishes and radio towers mushroom periodically from the hilly landscape. Occasionally a winding turn reveals a sudden glimpse of the Caribbean.

The security measures begin well outside the camp where prisoners stay. First there's a canopied checkpoint about a half-mile away that looks like a tollbooth with guns. When a van arrives there, two soldiers open its doors, check identification, and salute. Another young man, perched on a platform some eight feet high, watches over the proceedings while holding an M-16. The guards work twelve-hour shifts. They appear bored and hot.



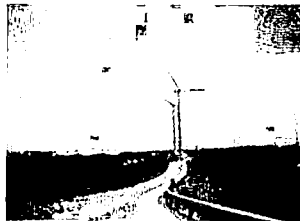
Board games and books are among the "comfort items" detainees receive.



Camp X-Ray, now abandoned.



The waiting room in the building where military commissions are held.



Gitmo's windmills are an alternative energy source for the base.



Sunset over the bay.



One of many resident iguanas.

A series of orange construction barriers follows the checkpoint. Only one vehicle can pass through at a time. Then there are signs: Camp Delta. "Honor Bound to Defend Freedom." No Photographs.

The three fences that surround the camp, which opened in April 2002, are enmeshed in an opaque green cover. Upon entering, you pass through a series of three large cages, called sally ports. They work like this: A guard opens a gate to the port. The van is driven in. The guard locks the gate behind. All passengers disembark, show IDs, and then stand around in the beating sun for five minutes as guards check under the vehicle with a mirror, a jumbo version of what a dentist uses to look for cavities in molars.

Then there's a review of the rules: No photographs of empty guard towers. No photographs that include two guard towers in one frame. No photographs of the guards without their permission. Photographs of detainees are allowed only below the neck or from behind. These rules are cautionary, because everything is reviewed and censored. No visits are unannounced.

The interior side of the third sally port is opened. You are now, in the local parlance, "inside the wire."

The U.S. naval base at Guantanamo Bay, Cuba measures 45 square miles and is located near the southeastern tip of the island. The United States began leasing land on both sides of the natural harbor in 1903, an agreement that can be terminated only by mutual consent. The arrangement has withstood the dissolution of cordial relations between the two countries. The U.S. sends an annual check for \$4080 to the Cuban government, and every year Fidel Castro fails to cash it. A seventeen-mile perimeter fence separates the base from Cuba proper, and an hourly ferry travels between its two shores.

Because the land is technically in a foreign country and is not a U.S. territory like Guam or Puerto Rico, the White House long ago determined that U.S. laws were not necessarily applicable here for noncitizens. From 1994 to 1996, more than 40,000 Haitian and Cuban rafters were housed here while politicians debated their refugee status, a history that links the naval base closely to many immigrants in Miami.

In 2001 George Bush faced a difficult problem. After declaring that the Geneva Conventions did not apply to enemy soldiers in his war on terror, he couldn't bring them to the United States. Stateside they could pose a threat or more easily sue the government. So the White House began sending what it termed "enemy combatants" to the extrajudicial haven locals call "Gitmo." The first arrivals were housed at Camp X-Ray, where unruly migrants had been kept in earlier days.

The *Herald's* Carol Rosenberg remembers watching the first prisoners arrive in January 2002. Dressed in orange jumpsuits, blacked-out goggles, and face masks, they had just completed a twenty-hour flight from Afghanistan. "As soon as they got off the plane and hit the heat, they wobbled, and the Marines just eased them down

on the ground," she says.



"Comfort items."



Guantanamo Naval Base scal.

Though the facility was open only four months, the photographs from Camp X-Ray remain the most pervasive Guantanamo Bay images. They show detainees in chainlink cages, shackled to stretchers, and kneeling on the ground in masks.

The old migrant cages were ill-equipped to deal with maximum-security inmates. Detainees were issued buckets for toilets. The doors lacked the rectangular openings (called "bean holes") to pass food through, so Meals Ready to Eat (MREs) were slipped through the door frame.

"I wouldn't call it a dog kennel. I call it a cell ... an outdoor cell," Col. Terry Carrico, commander of the military police unit at the time, told reporters in January 2002.

Almost from the beginning, U.S. officials backpedaled. Though Secretary of Defense Donald Rumsfeld described inmates as "the most dangerous, best-trained, vicious killers on the face of the earth," camp officials admitted there were at least 150 whose affiliation to the Taliban and Al Qaeda was uncertain.

Humanitarian groups like the Red Cross voiced immediate concern. Consider the following story, from released detainee Abdullah al-Noaimi, which aired on the radio show *This American Life*. Al-Noaimi, a Bahraini who studied for a time in the United States and speaks English, was nineteen years old when he was picked up in Pakistan, where the U.S. allegedly offered bounties for suspected Al Qaeda or Taliban members. He was imprisoned in Kandahar before being transferred to Cuba, and recalled his battlefield screening this way:

There was two interrogators. They wanted me to say I was a terrorist. I told them: "No, I'm not," and everything. The interrogator was smoking. He blew the smoke in my face. Then he came very close, very, very close to my face, and brought the cigarette between my eyes, and he said, "I swear to God I'm going to put it in your forehead if you don't tell me what I want to hear." So I just said, "Whatever you want to hear from me, I'm going to tell you. What do you want me to say?"

He said, "Say that you are a terrorist."

"You want me to say I'm a terrorist? Are you going to let me go? Are you going to let me sleep?" So I said, "Okay. I'm going to tell you whatever you want. Yeah, I'm a terrorist, now go to your bosses." And they left me.

Al-Noaimi was transferred to Guantanamo shortly afterward and detained there for more than three years.

The detention camp's reputation was further tarnished when descriptions of brutal interrogation practices reached the press. Perhaps the most damning was a series of FBI memos made public in 2004. They alleged detainees were shackled in the fetal position for more than 24 hours, left without bathroom breaks until they soiled themselves, wrapped in Israeli flags, subjected to music at ear-splitting volume, and intimidated with dogs. One soldier even talked of a case — later confirmed — in which a female interrogator smeared fake menstrual blood on a prisoner's face.

In June 2005, *Time* magazine obtained the interrogation log of Mohammed al-Qahtani, the so-called "20th hijacker." His interrogators had hydrated him with an intravenous drip to the point where his feet swelled and he urinated on himself.

Today Camp X-Ray — overgrown with flowers and fluttering with butterflies — has the aura of uncomfortable

history. Sitting amid tranquil blossoms and creeping vines, one can only imagine the potent combination of fear and hatred once rampant on both sides of the cages' walls.

Things are better for detainees. Jakob Kellenberger, president of the International Committee of the Red Cross, recently told the *National Journal*: "Our recommendations have been taken seriously, and there has been progress on conditions. But that does not mean, and I repeat, that does not mean that everything is fine."

For visiting media, the military constantly references past embarrassments but rarely admits mistakes. It makes for a bizarre vocabulary: Suicide attempts become "manipulative self-injurious behavior" or "hanging gestures." Cutting oneself or banging one's head against the wall is a "self-harm incident." Solitary confinement is "segregation." Hunger-striking becomes "fasting." And the 38 detainees determined not to be enemy combatants? "No longer enemy combatants," or "NLECs."

Aside from a large metal ring in the floor for securing shackles, and a big red button on the wall labeled Duress, the room looks like a teacher's lounge. It has white cement-block walls and a concrete floor, but a large Persian rug softens the bleak appearance. There's a coffee maker (Starbucks Barista Quattro), a television, and a DVD player. Three black office chairs face a dark wood coffee table and a plush blue La-Z-Boy chair.

"Interrogation at Guantanamo is voluntary," says Capt. Daniel Byer, referring to the room where detainees are interviewed. The chummy army public affairs officer from southern Illinois has an accent as Midwestern as a cornfield. His deployment in Gitmo began this past March. "We've found that the best way to get good intelligence is to develop a dialogue over a period of time." When asked if interrogations had always been voluntary, even in the Camp X-Ray days, he looks distressed. "It's hard to know what went on [there]."

Today the detainees who are still interrogated regularly — about 25 percent of the camp's population, say officials — apparently nestle into a recliner.

The interrogation room is a fixture of the media tour of Camp 5, Delta's 100-cell maximum-security facility. Completed in April 2004, it is a high-tech cement-block version of Jeremy Bentham's panopticon: computerized locks. Glossy interiors of one-way tinted glass. An enclosed column in the middle of glowing touch-screen monitors and closed-circuit television sets. The cells are like small, fluorescent-lit, air-conditioned mausoleums. A narrow rectangle of frosted Plexiglas passes for a window. Hooks to hang towels give when tugged hard — no one can hang himself here. Even the toothpaste is labeled, in black letters, "Maximum Security."

A reporter asks how detainees communicate. A guard who declines to give his name replies that no one is in solitary confinement. "They speak to each other through the walls and the cracks in the door," he says. "And they have constant interaction with the guards."

The army oversees Camp 5, but numbers 1 to 4 are under navy supervision. (The camps are numbered in the order they were built. Kellogg, Brown & Root — a.k.a. Halliburton — is building the \$30 million Camp 6.)

The navy part of the tour is led by Cmdr. Catie Hanft, the senior officer in charge of Camp Delta's guard force. Hanft has short hair and a tropical tan. She smiles in a way that indicates toting around the media is not a favorite activity. Her explanations are well rehearsed.

The long, perforated metal corridors of cells in Camp 2 are painted light green, "because it's calming and soothing," she says. The detainees, who hail from more than 30 countries, have "Asian-style squat toilets, like they are used to." While explaining the amenities of a sample cell in an empty corridor, Hanft places particular emphasis on religious freedom: The sinks are at knee level so detainees can perform feet-washing ablutions; the black arrow in every cell is aimed at Mecca; the Koran each detainee receives is wrapped in a surgical mask so guards don't touch it. There's the recorded call to prayer that's played over the loudspeaker five times a day, and the yellow traffic cone marked with a black *p* — for *prayer* — that's placed in the middle of the cell block corridor for 30 minutes after the call.

Toiletries in Gitmo are called "comfort items," a broad category that also includes prayer oils, mattresses, and prayer rugs. Compliance with camp rules earns detainees a beige jumpsuit, library privileges, black slip-on shoes, and more. (The most popular library selection? Says Hanft: *Harry Potter*, available in eight languages.)

The noncompliant detainee has only a thin foam mat, an orange jumpsuit, flip-flops, and a Koran. Comfort items are rewarded or taken away according to a "discipline matrix," Hanft explains in clipped bureaucratese. Things like using offensive language, throwing urine, and assaulting a guard count as negatives.

Next it's on to Camp 4, the only place visiting media generally see the interned. These, the "extracompliant," wear white. They eat and live in a compound of long, squat buildings. "They earn their way here," Hanft says. (And they can earn their way out: Prior to May 18, Camp 4 housed 175 prisoners. After the uprising, 66 detainees were transferred to higher-security facilities.)

The barracks of Camp 4 surround a sun-baked recreation yard with a basketball hoop, soccer field, and volleyball net. Only twenty detainees are allowed outside at a time. Shut off from the recreation yard for the duration of the media visit, they wander around behind the chainlink fences. One launders his white shirt and then dumps the water. A few chat idly at shaded, stainless steel picnic tables. This, then, is what a clash of civilizations looks like.

Finally there's the detainee hospital, where a tall, sandy-haired doctor — a reservist who didn't reveal his name — takes the reins. "Most media want to see the entral feeding tubes we use for the hunger strikers," he says, pulling out a long plastic tube about a centimeter in diameter. (At the time of this tour, there were only three hunger strikers. One had refused to eat for more than 260 days.) The tubes, inserted nasally, must be removed after every use; otherwise detainees could use them "to hurt themselves."

"If they miss nine meals, they show up as a hunger striker, but we hold off until they are endangering their own lives," the doctor explains.

The hunger strikers are restrained during the feeding. "But of the people I've seen, they're smiling when they're putting the tubes down, not struggling. They tell the nurse which nostril to put it in."

Prior to the May 18 uprising, 23 detainees had attempted suicide on 39 occasions, but no detainees have expired at Guantanamo. Later a journalist asks the doctor what the course of action would be if a detainee died of natural causes. "Hopefully justify to the world that it was natural causes," he replies.

Despite our persistent efforts to correct the record, many mainstream [media] outlets ... persist in referring to this facility as a "prison camp." ... Prisons are about punishment and rehabilitation; Guantanamo is about neither. What we are about is the detention of unlawful enemy combatants....

— Navy Rear Adm. Harry B. Harris Jr., commander of Joint Task Force Guantanamo, in an editorial in the *Chicago Tribune*

The government's use of the Kafkaesque term "no longer enemy combatants" deliberately begs the question of whether these petitioners ever were enemy combatants.

— U.S. District Judge James Robertson, in his December 2005 opinion for *Qassim v. Bush*.

Guantanamo hosts a steady stream of American civilian lawyers dressed in chinos and armed with loud opinions. They don't stay in East Caravella but are exiled to the nearly deserted leeward side of the bay. There they stay in a dormlike building called the Combined Bachelor Quarters, or CBQ.

At dusk, after a day of interviewing detainees, the lawyers and interpreters gather around picnic tables on the patio, which offers an expansive view of the moon reflecting off the Caribbean. On May 11, a trio of attorneys gathers there with six-packs of Red Stripe and bags of snack food. They are among the nearly 500 attorneys who make up the glibly titled Guantanamo Bay Bar Association. The military refers to them as "Habeas Counsel."

One is a measured sort, not quick to pronounce her opinions. Another is even quieter. He seems more comfortable discussing his upcoming wedding than the legal labyrinth of Guantanamo. And then there is Joshua Colangelo-Bryan.

A brown-eyed, affable attorney on his seventh visit to Guantanamo, Colangelo-Bryan is a native of New York City who lives in Brooklyn and grew up on the Upper West Side in the Seventies. "The *real* Upper West Side," he says. He works at Dorsey & Whitney, a New York firm that specializes in commercial litigation. But the firm has also represented six clients in Camp Delta, three of whom have been released to their home country of Bahrain, including Abdullah al-Noaimi.

Colangelo-Bryan has traveled to detainees' homes in the Middle East and met with their families. And he's not publicity shy — on his last trip to Bahrain, an NPR reporter accompanied him; he has interviewed with everyone from *Harper's* to *New York* magazine; and there's even an entry under his name on Wikipedia. Moral outrage comes easily to him. He can muster it even after a sunset swim at the leeward side's tiny beach.

"Would the U.S. have released three clients of mine who now live at home if those clients were actually terrorists?" he fumes. "Is it fair to call someone a terrorist who isn't even accused of being involved in violent activity, directly or indirectly? Many people not even accused of a crime remain in Guantanamo, even in the second year of ARB proceedings." He's referring to the Annual Review Boards that determine a detainee's continued imprisonment. "The ARBs can recommend continued detention based on nothing more than a statement made through torture," he concludes.

More than 280 detainees have been released or transferred from the base. Last year's ARBs approved the release or transfer of over 100 more. They remain in Gitmo as the Department of State negotiates their return home — or political asylum in another country.

But what Colangelo-Bryan and the other attorneys want for their clients is the right to challenge detention in a court of law. The White House says it is under no obligation to charge detainees: They will be held until they no longer present a threat, no longer offer intelligence value, or the war on terror ends. "It's like saying you can hold a drug dealer in jail until the war on drugs is over," Colangelo-Bryan asserts. "International law does not recognize a war against a tactic."

The lawyers were dealt a blow late last year when the Senate outlawed habeas corpus rights for Guantanamo

detainees. The Supreme Court had previously confirmed those rights — which require the government to legally justify detention — and the matter is again under review.

In the meantime, the attorneys board the ferry daily to see their clients. They are thoroughly searched outside Camp Echo, a series of huts where detainees are housed in solitary confinement during their lawyers' stay. The attorneys then wait while their clients are delivered and shackled to the floor.

"There are more wires on the wall in there than an electrician sees in a week, but in theory the conversations are private," says Colangelo-Bryan. "And there are cameras that supposedly only monitor the visuals, although not if your guy's trying to kill himself."

Colangelo-Bryan is referring to his Bahraini client, Juma al-Dosari, who attempted suicide on a bathroom break while meeting with the lawyer last year. Al-Dosari, who camp officials say has made twelve serious attempts, had cut one wrist and tried to hang himself. According to Colangelo-Bryan:

It had been maybe five minutes and I hadn't heard anything from Juma.... I opened the door to the room. The first thing I saw was a large patch of red on the otherwise white floor.... I realized it was blood. I looked up and saw something hanging from the inside of the metal mesh wall ... from the cell — where [he] had been left to use the bathroom.... It was Juma. His face and body were covered in blood from a gash to his arm, his eyes had rolled back in his head, and his lips and tongue were swollen.... I yelled to the guards because the door to the cell was locked; even though I was inches from Juma, I couldn't get to him. The guards came in and cut Juma down. A moment or two later, as the guards told me to leave, I heard Juma gasp for air — it was the first sound he had made.

Regardless of legal outcomes, Colangelo-Bryan thinks the lawyers have a purpose here. "Through those meetings, we tell the world what's happening," he says. "It's the most crucial function that we have. It's not that we accept everything [from the detainees] as the gospel truth, but many of their stories are corroborated by government sources." He pauses. "Everyone in Bahrain knows what's going on here."

The majority of Guantanamo detainees are being held for fighting in a war, however untraditional. Only a few — ten at the time of this writing — have been charged with war crimes. Under the traditional rules of war, martial law distinguishes cold-blooded violence from mere violence: Bombing a military convoy? War. Shooting an injured soldier? War crime.

The White House contends that since terrorists unite under the religious principal of Islamic jihad rather than the flag of a nation, the rules of crime and punishment have changed. In November 2001, George Bush drew on precedent last used during World War II, and declared that captured terrorists would be tried by military tribunals rather than the courts. These tribunals can cater to the nature of specific conflicts; they allow classified evidence and secret witnesses.

"How to deal with an enemy combatant who is a potential terrorist is something we don't have much experience in," says Capt. Bruce Roberts, a blue-eyed public affairs officer with a beleaguered demeanor. "We're trying to be humane in their treatment and their detention because we're the United States. [But] let me ask you this: Is it in the best interest of the U.S. to afford terrorists all the same rights — *potential or alleged* terrorists, that is — as a prisoner of war?"

As might be imagined, security at these trials — called military commissions — is tight. Visitors, who often include representatives from humanitarian and legal watchdog groups, are searched upon entry. Spiral-bound

notebooks are prohibited, presumably because a detainee could break out of his shackles, grab a notebook, pull out the coil, and attempt to stab someone before the approximately twenty soldiers and sailors in the room could catch him. A gauntlet of metal detectors and searches precedes entrance.

The commissions are held in a former dentistry clinic converted into a makeshift courthouse. Dark wood podiums, blue curtains, leather chairs, and the Joint Task Force seal decorate an otherwise nondescript room. The presiding officer, a high-ranking military official who serves in the role of judge, wears a black robe over his uniform, although his khaki collar points protrude.

It is cultivated gravitas, especially because the commissions could soon be declared unconstitutional by the Supreme Court. A military defense attorney, acting on behalf of Yemeni detainee Salim Ahmed Hamdan (who has admitted he worked as Osama bin Laden's chauffeur but contends he never took up arms against the U.S.), sued the government in 2004. He claimed the commissions were an "unprecedented, unconstitutional, and dangerously unchecked expansion of executive authority." The case, *Hamdan v. Bush*, was argued in late March, and an opinion is expected at the end of this month.

"The first and foremost problem with the commissions is they are not grounded in the rule of law," says Navy Lt. Cmdr. Charles Swift, who filed the suit. "They're based on a law made exclusively by the executive [i.e., the president]. We had a revolution against King George III for exactly that."

Swift is perhaps the most passionate critic of the tribunals. Even though he graduated from the U.S. Naval Academy in 1984 and has been in the military pretty much ever since, he says war is not a one-way street. "They're giving rules that can be changed at any time. The detainee does not have the right to confront witnesses, and he has no right to know the evidence against him," Swift adds. "The presumption of innocence does not exist."

The navy attorney was assigned to Hamdan's case to facilitate negotiations for a plea bargain, but he arrived at what he calls a "moral conclusion" to offer his client another option — particularly after a visit to the base. Once charged with a war crime, Hamdan was segregated from the rest of the prison population. "They call it 'pretrial isolation,'" Swift says. "I call it solitary confinement. After 60 or 70 days of it, he wasn't doing well."

The Supreme Court has the opportunity to define the rules of the war on terror with greater clarity, he says. "The military commissions as put together simply offer no validity," Swift comments. "They do not comply with the rules of war; conspiracy is strictly a domestic crime — it's not a war crime."

And his client, he points out, is now in his fifth year of custody.

"There's a quote by Thomas Paine," Swift says. "He that would make his own liberty secure must guard even his enemy from oppression; for if he violates this duty, he establishes a precedent that will reach to himself."

No matter what the Supreme Court decides, the court-appointed lawyer won't be alone in his objection to the tribunals: the UN, the European Union, and a crowd of others have openly declared their disagreement with the make-it-up-as-you-go nature of the commissions.

The man was slight, about five feet six inches tall, with black hair that stopped above his shoulders. He wore a loose-fitting beige prison uniform and black slip-on sneakers. It was early afternoon on Tuesday, May 16, during his allotted recreational time — two hours in a ten-by-twenty-foot chainlink cage in Camp 5's maximum-security prison.

Although the detainee had exercise equipment at his disposal (an elliptical machine, a manually operated treadmill, even a concrete stepping stone), he preferred not to use it. From the near end of the cell, he would jog forward until he reached the other side and then retreat without turning around. Forward, backward, forward, backward.

The camp spokesmen offered little information about this man. The color of his uniform told us he was a well-behaved prisoner. His living situation, in the maximum-security facility at Guantanamo Bay, meant he was either charged with a war crime, posed a serious threat, or had high intelligence value. Essentially the government's explanation for him is: Trust us. He's bad.

It's almost astonishing how very American the small town of 8000 at Guantanamo Bay seems. There's a homey familiarity to slabs of black asphalt winding through prefab suburban bliss, a grill on nearly every patio. There are the fast-food chains: McDonald's, Subway, Pizza Hut, Starbucks. The souvenir shop that rents the newest DVDs and sells T-shirts with slogans like "Got Freedom?" "The Taliban Towers: The Caribbean's Newest Five-Star Resort," "Behavior Modification Instructor," and (for kids, the modifier jauntily affixed in red crayon font) "*Future* Behavior Modification Instructor."

There's the outdoor movie theater showing *The Hills Have Eyes* and *Failure to Launch*. Cable television with HBO, Telemundo, and an audio-only channel broadcasting National Public Radio. Ben & Jerry's Cherry Garcia ice-cream bars cool in cafeteria freezers. Swings hang in tiny parks. A go-cart course is under construction, and off-duty officers swing clubs on a golf course whose landscape differs only slightly from the brambles and thorns of the desert that surrounds it. Occasional performances by entertainers like Jimmy Buffett and the Pittsburgh Steelers cheerleading squad boost morale. Troopers take scuba lessons near Gitmo's limestone cliffs. At Christmastime, officers' wives offer a tour to showcase holiday décor.

They've brought a lot of the U.S. to Guantanamo, if we define ourselves by brand names and movie titles. But the part of being American that first defined us from the rest of the world somehow got lost on the way.