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A Missed Chance for Justice in Court

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A missed chance for justice in court

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CHAPEL HILL When I first heard that Osama bin Laden had been killed, I felt nothing, only numb. I could not sleep that night, unable to relate to the throngs of people on television, pumping their fists and chanting, "USA! USA! USA!"

Then I began to ask why. Why was it necessary to assassinate rather than take bin Laden into custody, bring him to the United States and subject him to what is undoubtedly the premier criminal justice system in the world?

As a defense attorney and one of the team of public defenders who represented Richard Reid, the so-called Shoe Bomber, I know as well as anyone the challenges inherent in trying an alleged terrorist. But that is the point, isn't it?

We are the model of a civilized democracy. We do not convict suspects in the court of public opinion and execute them under cover of national security or biblical notions of vengeance. We follow the Constitution, which requires notice, appointment of counsel, the privilege against self-incrimination and the right to confront your accusers. We put the government to the test, ensuring that it proves each element of every charge beyond a reasonable doubt. We do not allow hearsay or evidence that is more prejudicial than probative. We provide trial by jury and the right to appeal. We are not a dictatorship or a police state. We are, as they say, a city upon a hill; the eyes of all people are upon us.

I do have my own upsetting memories of 9/11. I was pregnant with my second child, working in Boston where the hijacked flights originated. Upon learning that planes had flown into the World Trade Center and the Pentagon, we were told to evacuate, to go home. I ran to my daughter's day care center in the federal courthouse, took her in my arms and made my way to a parking lot not far from Logan Airport. I prayed that we would make it home safely.
Three months later, nearly six months pregnant, I was assigned to represent Richard Reid. Although I had defended many unpopular people, including those charged with brutal acts of violence, this was a new level of duty. Yet, aside from the intense media attention and the charges of terrorism brought against Reid under the Patriot Act, my task was no different than it had always been: to represent my client to the best of my ability, to ensure that his rights were protected and to be his voice in court.

It was a privilege to represent Reid, a privilege in the same spirit as it was for John Adams to represent the British soldiers accused in the Boston Massacre. I was helping to ensure that our American ideals and values were adhered to in practice, not just in theory.

Given this backdrop, news of Osama bin Laden's death at the hands of Navy SEALs, under circumstances suggesting that he was unarmed and posed no immediate threat, leaves me conflicted. I hope his quick and painless demise and somber burial at sea give the victims of 9/11 a sense of peace and some degree of closure. I hope that he knew in those final moments that the United States had prevailed against his actions and expressions of hate and vitriol. I hope he knew that neither he nor anyone can extinguish this country's commitment to and belief in the virtues of freedom and democracy.

Yet, how much more satisfying it would have been to see him brought down low like hundreds who have been tried in federal courts for acts of terror on U.S. soil, many of whom are serving life in prison, including Sheik Omar Abdel Rahman, who plotted the 1993 World Trade Center bombings; Zacarias Moussaoui, who conspired to kill U.S. citizens as part of 9/11; and Faisal Shahzad, who tried to blow up an SUV in Times Square last year.

To see bin Laden stripped of all dignity, brought into a courtroom wearing an orange jumpsuit and treated like any other criminal defendant would have been a triumph of the rule of law.

The night that Richard Reid was convicted and sentenced to several terms of years that will keep him behind bars for the rest of his natural life, I rested soundly, content in the knowledge that our treatment of him, our provision of rights to him, meant that the U.S. had once again overcome terrorist threats.

Nearly 10 years after 9/11, I am sleepless. I try to explain to my daughters, now approaching adolescence, why bin Laden was shot dead, why he was not brought into court, why someone like their mom was not appointed to represent him. I have no words.

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