Civil Liberties and the Fight Against Terrorism

Institute of Bill of Rights Law Student Division

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Civil Liberties and the Fight Against Terrorism

Institute of Bill of Rights Law
Student Division Symposium

Monday February 18, 2002
2:30 - 5:30 p.m.
McGlothlin Courtroom
William and Mary School of Law
SYNOPSIS OF CASE

The United States of America v. Abdul Rahim

The facts of the case are as follows:

On the morning of September 15, 2001, Officer Nathan Kirschner of the Washington, D.C. Metropolitan Police observed the respondent, Abdul Rahim, loitering near the State Department Building in Northwest Washington, D.C. Rahim is a 23-year old man of Jordanian descent.

Officer Kirschner observed Rahim walking slowly around the building photographing various parts of the structure with a disposable camera. Based upon Rahim’s behavior Officer Kirschner approached Rahim and asked him why he was looking at the building. Rahim responded that he was a tourist simply admiring the architecture. Officer Kirschner requested identification from Rahim and he produced a valid Virginia driver’s license. Unsatisfied and suspicious of Rahim’s “nervous behavior,” which included “shifty eyes” and “uncomfortable body language,” Officer Kirschner asked respondent if he could “pat him down.” Rahim replied, “No you cannot. I am an American citizen. I know my rights.” Officer Kirschner then forcefully executed a “stop and frisk” on Rahim based on his suspicious and evasive behavior.

While patting Rahim down, Officer Kirschner felt a suspicious object in the right front pocket of respondent’s pocket. Officer Kirschner testified during trial that he asked Rahim: “What’s in your pocket?” Rahim made no response. Officer Kirschner testified that he recognized the size, shape and weight of the suspicious object as a detonator cap. Officer Kirschner further testified that although he had no formal training with explosives, he was familiar with detonator caps because his father was in the construction business. Upon emptying Rahim’s right front pocket, Officer Kirschner discovered an explosive detonator cap.

Based on the discovery of the detonator cap and Rahim’s suspicious behavior, Officer Kirschner found probable cause and arrested Rahim for unlicensed possession of an explosive device. Upon his arrest the police conducted a warranted search of his home and discovered large quantities of explosives and architectural plans of the State Department.

At trial in the Federal District Court for the district of Columbia, Rahim was convicted of unlicensed possession of explosives, attempted arson, and planning a terrorist act. The D.C. Circuit Court of Appeals reversed the District Court decision regarding the admissibility into evidence of the seized detonator cap. The District Court excluded the detonator cap based on their determination that Officer Kirschner’s stop, search and seizure violated Mr. Rahim’s Fourth Amendment rights. According to the Circuit Court opinion, Officer Kirschner exceeded the bounds of his authority to execute a Stop and Frisk for weapons or contraband as defined in Terry v. Ohio, Illinois v. Wardlow and Minnesota v. Dickerson. The United States of America petitions the United States Supreme Court to reverse the D.C. Circuit Court of Appeals and have the seized detonator cap reinstated as evidence.
ABOUT THE PANELISTS

John G. Douglass is an Associate Professor of Law at the University of Richmond School of Law, where he teaches Criminal Law and Criminal Procedure and manages the Second Year Lawyering Skills Program in trial and appellate advocacy. Professor Douglass received his B.A. from Dartmouth College and his J.D. from Harvard Law School, where he served on the Harvard Law Review.

Professor Douglass has clerked for the Hon. Harrison L. Winter, Chief Judge of the U.S. Court of Appeals for the Fourth Circuit, was an Assistant United States Attorney in Baltimore, served as Associate Counsel in the Office of the Independent Counsel for the Iran/Contra Investigation, and worked in private practice. He served as the Chief of the Criminal Section at the U.S. Attorney’s Office in Richmond directly prior to joining the University of Richmond faculty in 1996.

Timothy H. Edgar is a Legislative Counsel for the American Civil Liberties Union in its Washington National Office. Mr. Edgar is responsible for defending and promoting civil liberties in Congress and in the Executive Branch in the areas of national security, terrorism and immigration. Mr. Edgar has testified on civil liberties issues before the U.S. Commission on Civil Rights and has provided written testimony to Congress, and has also addressed these topics in panels and in radio and television appearances.

Mr. Edgar came to the ACLU in May 2001 from the Washington, DC law firm of Shea & Gardner. In 1997-98, Mr. Edgar was a law clerk to Judge Sandra L. Lynch of the United States Court of Appeals for the First Circuit.

Mr. Edgar received his law degree from Harvard Law School in 1997, where he served on the Harvard Law Review.


In 1992, Rep. Scott became only the second African-American from Virginia to be elected to the U.S. House of Representatives and he is the first African-American elected since "Reconstruction." He serves on the Education and Workforce Committee and the Judiciary Committee where Rep. Scott is the leading Democrat on the Crime Subcommittee.

(Source: //www.house.gov/scott)

Cynthia Ward received her B.A. from Wellesley and her J.D. from Yale. Prior to law school, she was an editor and a journalist. Before joining the William and Mary faculty in 1997, Professor Ward taught at Arizona State School of Law. She currently teaches Criminal Law, Property, Legal Themes in Literature Seminar and Philosophy of the Law and is the author of articles in the Columbia Law Review, University of Chicago Law Review, and Northwestern Law Review.
Monday, February 18, 2002

2:30 p.m.  
**Moot Court Presentation**

*The United States of America v. Abdul Rahim*

Final Round of 1L Moot Court Competition

Petitioner: United States of America  
Represented by: Casey Chmielewski  
Co-Counsel: Erin Butler

Respondent: Abdul Rahim  
Represented by: Sarah Rohn  
Co-Counsel: Jason Eisner

Judges:  
Professor John G. Douglass, University of Richmond School of Law  
Timothy H. Edgar, Legislative Counsel for the American Civil Liberties Union

3:30 p.m.  
**Panel Discussion: Civil Liberties and the Fight Against Terrorism**

Moderator: Professor Cynthia Ward, William and Mary School of Law

Panelists: Professor John G. Douglass  
Timothy H. Edgar  
Congressman Robert C. Scott (D-Virginia)

The audience is invited to join panelists for refreshments following the conclusion of the symposium discussion panel at 5:30 p.m.
Committee:
Symposium Chair: Timothy Peltier
Moot Court Coordinator: Peter Allen
Faculty Advisor: Davison Douglas
Institute Coordinator: Melody Nichols
Publicity: Adrienne Griffin
Eric Herbst
Todd Muldrew
Eric Nakano
Katie Riley

The Student Division Thanks:
Nicolas Boring, Cover artwork
Melody Nichols
Professor Davison Douglas
Professor Paul Marcus
Professor Kathryn Urbonya
Petra Klemmack
Courtroom 21
Gloria Todd

Moot Court Participants
Gary Abbott
Russell Anderson
Mark Berlick
Jennifer Berndt
Susan Billheimer
David Blessing
Dana R. Bowling
Erin Butler
Lindsey Carney
Gunther Chesnut
Casey Chmielewski
Harmon L. Cooper
Eric Cook
Mary Carol Daly
Bruce Davis
Michael DeLuca
Jason Eisner
Michael Gentry
Adrienne Griffin
Stephen Glymph
Shannon Hadeed
Nicole Harms
Melinda Hasbrouck
Brian Hayes
Jeremy Hochberg
Heather Hodgman
Bo Kim
Joseph Krause
Tricia Lightcap
Dale Mobley
Karen Mooney
Christopher Parrott
Eric G. Peterson
Joshua Raynes
Natasha Robinson
Sarah Rohn
Kristine Schmidt
Monica Sholar
Jeffrey Spann
Ping Tao
Sean Tepe
Trina Walters
Maxwell Wiegard
Spencer Wiegard
Laura Wright
Laura Zinanni

Moot Court Judges
Brian Athey
Jason Bagwell
Tyler Brass
Holly Shaver Bryant
Lelan Carpenter
Jason Collins
Ian Connor
Melanie Conrad
Kelly Farnan
Pete Flannigan
Bo Foley
Kari Lou Franck
Ross Fulton
Harrison Gibbs
Ashley Hornsby
Christina James
Samantha Keck
Sarah Kinsman
Amy McMaster
Sandy Mastro
Eric Nakano
Melissa Newton
Timothy Peltier
Derek Redmond
Zeke Ross
Elisabeth Sawyer
Nicole Spain
Barrett Thies
Keith Wesolowski

Moot Court Bailiffs
Daniel Barnes
Adrienne Griffin
Todd Muldrew
Laura Wright