

Reprinted From
The New York Times

FRIDAY, FEBRUARY 6, 2004

PUBLIC LIVES

Ex-Judge vs. the Government's Law-Free Zone

By **CHRIS HEDGES**

NEWARK

FA TE can make strange bedfellows. Take the case of the retired federal judge John J. Gibbons, a reserved and slightly dour man who wears crisp white shirts and pinstriped suits, who was a Nixon appointee to the bench, and Shafiq Rasue, an Islamic militant accused of fighting against American forces in Afghanistan and incarcerated in the detention center in Guantánamo Bay Naval Base in Cuba.

Mr. Gibbons, 79, the former chief judge of the United States Court of Appeals for the Third Circuit, in Philadelphia, will go before the Supreme Court in April and challenge the government's continued detention of some 660 men at Guantánamo. He will argue that the Bush administration cannot hold foreign citizens without trial and legal representation.

"This case is all about the preservation of the rule of law," he said. "There was an editorial cartoon in *The Newark Star-Ledger* that depicted a gate outside the Guantánamo Bay Naval Base with the words 'No Law Zone.' I am uncomfortable with no-law zones."

He is at once an insider and an outsider. He is a graduate of Harvard Law School, class of 1950, and lifelong resident of New Jersey. A Republican, his politics tend to veer to the conservative. And he is a director of the law firm of Gibbons, Del Deo, Dolan, Griffinger & Vecchione, which has about 125 lawyers who work out of four floors in a glass office building connected to Penn Station in Newark, and another 50 in New York.

The firm has its share of deep-pocketed corporate clients and makes much of its money on intellectual property rights and patents. But Mr. Gibbons, in his role as a gadfly, is also one of the state's leading



Chester Higgins Jr./The New York Times

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crusaders against the death penalty. He oversees an effort by three lawyers known as Gibbons Fellows, who work free on the cases of those who could not otherwise afford legal representation, many of whom are on death row.

Lawyers who bring in clients are known as rainmakers. He is no longer the most prominent of these, although he does do some arbitration and other work to help cover the cost of the free legal services.

"The joke around the firm is that I am the acid rainmaker," he said.

But then he grows serious. He has, he said, always been outraged by the use of the death penalty, which is why he has his firm

file "friend of the court" briefs in almost every death penalty case in New Jersey.

"It is horrible that in a civilized country the arbitrary imposition of revenge continues to exist," he said. "This does not exist in any other industrialized democracy in the world. We are completely out of step. We should be ashamed."

Law for Mr. Gibbons is not partisan. It is not about choosing those we do not like, or do like, and then determining if they receive full legal rights.

"Sometimes the people we represent have committed heinous crimes," he said. "We are often not very popular for the work we do, but our job is to make sure the law applies to everyone. Unpopular people need representation. They frequently present the most interesting and challenging legal questions."

HE describes the Patriot Act, along with the detention without charges of those defined as "enemy foreign combatants," as "a serious erosion of the rule of law."

"The difference between us and a good part of the rest of the world is that we have been dedicated to the rule of law," he said. "It is important that people like me fight to preserve that tradition."

Mr. Gibbons and his wife, Jeanne, have seven children and 13 grandchildren. His decision to become a judge for 20 years was one that put a severe strain on household expenses.

"The first year I was on the bench my salary was less than what I paid the previous year in taxes," he said. "There were two years on the bench when my college tuition bills were \$48,000 and I was earning \$60,000."

He took a night job as a professor of constitutional law at Seton Hall Law School in Newark.

"My wife made me give it up when I was

73 because she felt I should not be working 70 hours a week," he said, adding that he had no intention of retiring since he wanted "to keep using my brain."

"I have actually retired from two life-tenure jobs," he said.

While Mr. Gibbons, who begins his sentences with long pauses and speaks at times almost in a whisper, has never met Mr. Rasue, or any of the co-defendants,

who include 12 Kuwaitis, 2 Australians and 2 British citizens, he does know Guantánamo Bay.

"I was stationed there in the Navy at the end of World War II," he said. "I was there for a year. I know the landscape. It is dry, arid with cactuses. There are a lot of exotic plants and iguanas. It looks like southwest Texas. It is not a very pleasant place."

He no longer sails — a passion of his —

holding up his fingers to show the toll of arthritis. He admits he has had to slow down a bit. But his love, the one that defined his life for more than five decades, remains undiminished. He starts into the case he will present, turning out phrases that he has minted over the last few days in his head and then asking that they not be printed.

"I want to save that for the Supreme Court," he said.

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