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Law

Kafka Comes to America
Steven T. Wax
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What separates the United States in its treatment of its alleged enemies from the tyrannical dictatorships that are its enemies? According to public defender and first-time author Steven Wax: precious little.

Wax, who was part of the trial of David "Son of Sam" Berkowitz, describes his defense of two innocent men accused of terrorism: an American, Brandon Mayfield, and a Sudanese, Adel Hassan Hamad; the former in Wax's hometown of Portland, Oregon, the latter held in Guantanamo Bay in Cuba.

Unfortunately for Brandon, a fingerprint matching his with "one hundred percent certainty" was found on the scene of the 2004 Madrid train bombings; it didn't help that there was also suspicious circumstantial evidence involved. Adel's case was more sinister: he had simply been abducted out of nowhere, tortured, and ultimately sent to Guantanamo, never given a trial. Wax describes his efforts for both men in a way that is both meaningful and accessible.

Brandon, a lawyer himself, had married an Egyptian Muslim woman and converted to Islam; the couple had three children and the family was relatively secular. Brandon's clientele were largely Muslim, including one client who really was a terrorist, something which added to his own circumstantial guilt. In addition, Brandon owned a gun and, from his time in the US military, knew how to fly a plane and was versed in bombs and arsenal. After the Madrid bombings, he searched on the internet to find more information on the tragedy. Put it all together, and it's understandable that these were a series of red flags.

Adel, whose family was in Sudan while he was working in Pakistan, was woken up in the middle of the night by Pakistani and US military personnel who took him away, an action that Wax calls, “disappearing him.” At the time, Adel was working with a Muslim charity organization and had nothing to do with terrorist acts: his alleged guilt was one of possibly having come into contact with a known terrorist at work.

The Bush administration’s line on those even accused of terrorism asserts that people in Guantanamo are there for a reason, that they belong there, and that pains have been taken to assure that only the people who belong there are held. According to Wax, this is sadly not the case. The desperation of the United States to prevent and battle terrorism “at any cost,” in combination with Americans’ misery and fear, has brought extreme misery to innocent people and casts aside civil and human rights which the Constitution in theory protects.

Brandon faced a charge of the death penalty until further research on the fingerprint cast doubt that it was really his. His meetings with Wax must have been analogous to a patient meeting with a doctor to discuss whether the malignant tumor was operable or not. Adel, as of this writing, has not been granted a trial despite the tireless effort of Wax and his team. Until they arrived, Adel’s family assumed he was dead.

Wax poses the question: how could this happen at the hands of the US government? The title of his book derives from Franz Kafka’s *The Trial*, in which the protagonist is arrested out of nowhere for a crime of which he is kept ignorant. The accusation came as much out of the blue as waking up to discover one was a cockroach. Perhaps this can be expected in an authoritarian regime, or science fiction, but has now also become a reality in the US.

Activism on behalf of Wax and his team has resulted in a video broadcast on YouTube called *Guantanamo Unclassified*. The video was number one on the Web site’s news and politics sites, drawing the world’s attention.

Kafka Returns to America can be summed up by Benjamin Franklin’s famous quote: “Those who would give up essential liberty to purchase a little temporary safety, deserve neither liberty nor safety.”

Sarah Trachtenberg