

# NEWS AND EVENTS

## IN AMERICA'S WAR ON TERRORISM

### THE RIGHTS OF ALIENS MUST END

### WHERE THE RIGHT TO AMERICAN SECURITY BEGINS.

by Michael J. Wildes, Esq.

Transcribed from The Bergen Record - 9/21/01

Back in June, I was invited to Governor George Pataki's press conference to announce New York's newly established Terrorism Commission. When I proposed later that month that my home state of New Jersey follow suit, I never imagined we would be facing the most devastating terrorist attack ever seen on our soil only two months later.



As an immigration lawyer who has dealt with terrorists and defectors to ensure they provide the United States intelligence community with difficult to attain information on terrorist activities, my job utilizes immigration law to battle an elusive enemy ensconced in secrecy.

More than once, it was called a "war" at that press conference; but I doubt anyone there realized then just how prescient the use of that verb would be. Such was the height of the wall of denial in our land only months ago -- even among those in the forefront of the fight.



Exactly ninety days later, two hundred and twenty stories of our denial burned, crumbled and collapsed as our nation looked on in horror. By the time the smoldering gray air had drifted past the Statue of Liberty a few thousand feet away from ground zero, Americans knew they now lived in a world very different than the one they did only hours before. By sunset, few thinking people could deny the severity of the crisis America now faces.

We must all stand united in support of our President and our Congress as our military leaders. But we must never forget that a war against terrorism cannot be won if we fail to identify and address our vulnerabilities to prevent future terrorist attacks. Preventing terrorism is more effective than chasing and punishing the terrorists after an assault occurs. While the United States military plays a significant role in this prevention effort, the most powerful weapons we have to prevent terrorism from abroad are embedded in United States immigration law.

The hard work of immigrants, my grandparents among them, built America's strength. Our greatness is a direct result the contribution immigrants made then and make now. Atrocities inflicted upon us by forces from outside our borders will tear America apart if as a result we assault one another from within. Our strength is rooted in the unity of our people comprised of all races, creeds, and ethnicities. The evil of any terrorist's acts do not necessarily reflect his nationality, as American terrorist Timothy McVeigh illustrates all too well. Today, Americans rebelling against terrorism by taking innocent Moslem lives in our country only add to the heartbreak of a growing body count of the real terrorist's victims.

Yet, in the case of this unforeseen external breach of national security, United States

immigration law should be applied with a reasoned sliding scale of legal rights. Potential victims of terrorism must be accorded the highest degree of protections. While I am an advocate for the rights of aliens who make a significant contribution to our country, I cannot advocate that their rights stand equal to ours in a time of peril.

On September 11th there was a seismic shift felt in America. Priorities changed dramatically. We can no longer indiscriminately hold ourselves out as the beacon of freedom to the world if it means compromising our safety in arguably the darkest moment in American history.

A case in point is *Zadvyas vs. Davis*. In this recent decision, our country's highest court determined that it was unconstitutional for illegal aliens to be detained indefinitely, or even be detained for more than six months in the United States when no other country would accept them. Doing so, the court ruled, violated their rights under our Constitutional protection of Due Process. The fact that the court's decision would permit convicted criminals to go free was not found legally relevant.

In effect, the Supreme Court made it the law of the land for illegal aliens to share the Constitutional protections penned for American citizens. To be sure, no Justice in that case could possibly have pondered that any of these released illegal aliens might potentially inflict upon the United States of America destruction of the magnitude we recently sustained.

The wrong parties have taken advantage of our rights.

The terrorist we hold accountable for our sorrow is harbored by Afghanistan under the guise of protecting his rights. At home, we question how our cherished rights were extended to his fanatical followers here. The potential harm of porous immigration law, like that created in *Zadvyas*, must be examined with scrutiny in the unfolding debate over the role immigration law plays in the protecting America from this once unimaginable terrorist threat. There can be no partisan divide when it comes to strengthening our immigration law, only a cohesive patriotic effort.

We cannot resort to extremism to fight terrorism by extremists. But basic common sense dictates that until we ascertain that we are again reasonably secure, we cannot freely give the benefits of our rights to aliens presenting even the slightest potential threat to us.

This will be unfair to the small number mistakenly suspected innocent people rejected entry to the United States. Yet, that minor injustice to them pales in comparison to any further slaughter of our loved ones.

In employing our immigration law to combat terrorism, the United States cannot be bound by the same blindfold the rest of our justice system uses for fair judgment. It makes a mockery of our Constitution to extend rights to aliens who may pose a serious threat to the very Americans who fought protect them.

In 1903 the sonnet "The New Colossus", by American poet Emma Lazarus, was inscribed at the base of the Statue of Liberty to articulate why America welcomed immigrants. In part, it reads: "Give me your tired, your poor, your huddled masses yearning to breathe free..." Our President, Congress and Supreme Court must reject the notion that it was the intent of our Constitution's authors to effectively include "your hardened criminals and your terrorists" in that verse.

#### **ABOUT MICHAEL J. WILDES:**

A former federal prosecutor, Mr. Wildes is renowned as an immigration attorney for his instrumental role in obtaining terrorist secrets from the only terrorist implicated in the Khobar Towers bombing that killed 19 U.S. servicemen. In another case, Mr. Wildes was put under government protection because his efforts resulted in his being targeted for assassination. Mr. Wildes also serves as a Councilman in Englewood, New Jersey.

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