



Perspective

The Case That Makes A Lawyer's Life Meaningful

BY PETER L. ZIMROTH

Arnold & Porter is leading a pro bono effort— together with Archer & Greiner, the Brennan Center, and the Asian American Legal Defense and Education Fund—to challenge a newly enacted zoning law in Bridgewater, N.J., which was designed to block the development of a proposed mosque in that town. Recently I was asked to talk to a gathering of more than 200 Muslim supporters of the proposed mosque. The lawyers were being thanked for their pro bono effort, and I was asked to talk about the case and about why lawyers chose to undertake a case like this pro bono.

Speaking to this group, I was forced to confront the gap between my own deep faith in the ideals of American democracy and the evident injustice that was being done. There are 18 houses of worship in Bridgewater, none of them Islamic. The township had passed a new ordinance precisely to block the Al Falah Center. Many people at the gathering, including most poignantly, the children, asked a very simple question: if everyone else in our town can have a place of worship, why can't we?

At the same time, the experience was exhilarating because I saw how much lawyers can touch the lives of their clients and how we can help make this “a more perfect union.” Although we had recently defeated the township's motion to dismiss the case, everyone well understood that there was a long way to go. Yet the gratitude was real, and it was warmly expressed. We were being thanked not because we had “won” but because we were so vigorously giving voice in court to their story. And we were showing how that story fits within the larger story of American democracy.

The following are my remarks:

“You may wonder why your lawyers have taken on this matter for free and have committed such significant resources to the effort. There are many lawyers involved, and I cannot speak for all of them. Speaking for myself, I have been a lawyer for more than 40 years. I love what I do. This case crystallizes for me something that is very special about being a lawyer in this country in this legal system.

The name of the case itself says something important. ‘Al Falah verses the Township of Bridgewater and the Town Council and the Town Planning Board.’ It says that in this country, we can require town officials to come to court and account for their behavior. They did not want to do that and asked the judge to dismiss our case. Just a few weeks ago, the judge refused. So now our case goes forward. And their actions will be held up to the light, and they will be judged to see whether they comported with two of the most important pillars of our democracy—religious tolerance and equal justice.

Al Falah will also tell its story, which it will be proud to do. Members of the community had been looking for a permanent home for religious worship for years. They found the perfect property, the old Redwood Inn that was being rented out as a banquet hall for weddings, political fundraisers, and religious worship, including some of yours.

The property came up for sale, a contract was signed, and Al Falah hired Archer & Greiner to guide it through the town's approval process. The goal was to make sure that the application met all the requirements of the zoning laws so that Al Falah could use the property as a house of worship without the need to apply for any variances. At

the time, the property was zoned so that a house of worship was a permitted use on that property. Because traffic might be raised as an issue, Al Falah hired a traffic engineer who studied the traffic patterns and concluded that, even at the times of most intensive use, the impact of the mosque would be minimal.

Al Falah met with town officials to discuss the project. The town hired its own traffic expert who agreed with Al Falah's traffic expert. Then the county also reviewed the plans and concluded that the impact on traffic patterns would be minimal.

During the meetings with town planning officials, they raised no significant issues that might have caused the rejection of the project. So, in January of this year, Al Falah filed its formal application to use the property as a mosque and prepared to participate in the public hearings which were part of the process.

These were expected to be routine. They were anything but.

Usually a handful of concerned neighbors would attend hearings like these. But some ill-informed people publicized the meeting and stirred up anti-Muslim prejudice. Four to 500 people came to the first scheduled meeting, so many that the hearing had to be cancelled and moved to another location weeks later. At the later public meetings even more people showed up. The hostility was palpable. Blatantly offensive words were uttered. There were death threats on the Internet.

Al Falah responded to these provocations with restraint and dignity. The township officials, however, as we will prove in court, caved under the pressure. They hastily acted so they would

not have to approve Al Falah's application. They changed the zoning law so that a house of worship is no longer a permitted use on the Redwood Inn property.

After the zoning law was changed, Al Falah came to us, Arnold & Porter, through the Asian-American Legal Defense Fund and the Brennan Center at NYU Law School both of which are still working on the case with us.

In a case like this, one of the first things to address is: who will the plaintiffs be? To be a plaintiff is not an easy choice for a person to make. You subject yourself to questioning in the court process and, out of court, to hostility. Nonetheless, every person whom we asked to sign on did so. Every one of them understood the importance of standing up to be heard.

That decision links those brave people to an important part of American history, which is the continuing struggle to make what the preamble of our Constitution says is the very purpose of the Constitution—to create "a more perfect union." Those who wrote our Constitution understood very well that people are not perfect and that our Constitution would not make us perfect. What is important is striving towards the goal—getting closer to the goal—the goal, in the words of the Constitution, of "establish[ing] Justice" and insuring the "Blessings of Liberty."

Seventy four years after those words were written, and 87 years after we declared independence from Great Britain, one of our greatest presidents, Abraham Lincoln, made the same point in a speech less than 200 miles from Bridgewater, in Gettysburg, Pa.

He was consecrating a cemetery for the fallen soldiers who died in a very bloody battle during the Civil War. He said that this nation was "conceived in Liberty and dedicated to the proposition that all men are created equal." He knew, in the midst of that terrible war, that that ideal had not been achieved. And so he asked the nation to dedicate itself to "the unfinished work" (that's what he called it, the "unfinished work") "which they who fought here have thus far so nobly advanced." And he asked the rest of the nation—those still living, and I think he was also talking to future generations, all of us—to dedicate ourselves to "the great task remaining" which was that there be "a new birth of freedom."

Lincoln understood, like the founding fathers

before him, that this country was not perfect but that what is important is the dedication, the commitment, to strive for the ideals of this democracy, to get closer to those ideals, even if we cannot achieve them with perfection.

And that is what this case is about, striving to reach the ideals of this country, to make the nation "more perfect."

I don't need to tell you how difficult that struggle is, especially now, after 9/11, and after real and justifiable concerns about terrorism have led in some quarters to unjustifiable bigotry against Muslims in general. But I do think it is important to say that, although the circumstances of each situation might be different, others have faced difficult struggles.

They were faced by my people, the Jewish People, who saw many in this country turn their backs and revile us even as we were being incinerated in Europe.

They were faced by Japanese American citizens who were incarcerated in camps on the West Coast during the Second World War simply because they were of Japanese ancestry.

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They were faced by black African-Americans whose ancestors were brought here in chains and who still must deal with that terrible legacy.

And although they may have taken different forms and with different levels of intensity, many immigrant groups have faced similar challenges.

In all these cases, progress has been made not simply because of the words in our Constitution or Lincoln's words at Gettysburg. Those words would die if they did not live in the hearts of the people. And they would die without the willingness of people to sacrifice to make those words live.

Which brings me back to Al Falah and the plaintiffs and all their supporters. You have shown a willingness to put yourselves on the

line. If you commit to trying to make this a more perfect union, you will achieve something very important regardless of the outcome of this vparticular case.

In fact you already have.

You have helped bring this community together to support the cause of religious freedom. You have shown skeptics that you can fight for your rights with dignity, with restraint, and within the best traditions of American law.

Your case has brought your cause to the attention of allies and potential allies. The U.S. Department of Justice has opened an investigation into the behavior of the town officials. Some time before our case began, the Anti-Defamation League sponsored an interfaith coalition on mosques comprised of important Jewish, Catholic, Protestant and Muslim leaders. That group recently wrote a strong letter to the mayor of Bridgewater and the president of the town council supporting your case. And there are more supporters; and there will be still others added.

Of course, we lawyers appreciate the thanks you are giving us for undertaking this case. But no thank yous are required. A case like this is, after all, one of the things that makes our lives as lawyers most meaningful and fulfilling—by participating in your attempt to uphold the ideals of American democracy."

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