

Chairman Sensenbrenner and Members of the House of Representatives Committee on the Judiciary:

I appreciate that this hearing is taking place and am thankful for the opportunity to speak today.

Unfortunately, the remarks I originally prepared to present, after yesterday's surprise announcement by the Attorney General, no longer seem adequate. I had planned to come here today to press our case for justice--for our beloved families, friends and co-workers, all the magnificent people whose loves were cut short so suddenly in the horrific and savage attacks that will forever be known, simply, as, "9/11."

My appeal was to be a humble one. How, I planned to ask, after all we witnessed and experienced, individually and as a nation, on that terrible, dark day, can we be satisfied to let justice founder?

Americans answered the call. Firefighters, police, and other first responders answered without hesitation, some knowing they would not survive, but rushing in, urged on by the duty and hope of saving just one life. At the Pentagon, those who survived rededicated themselves to avenging their lost comrades and protecting the country. The passengers and crews on airplanes all took courageous action, their lives changing in the blink of an eye. We saw people from all over America work for months in a recovery effort. Some of them are now dying because they would not leave their fellow human beings beneath 1.8 million tons of toxic rubble.

How, I planned to ask, can we, who survived that day, forsake their courage, their dignity, their decency, by letting justice fail?

How can it be that Khalid Sheikh Mohammad, aka, KSM, has not been brought to justice? ...10 YEARS AFTER 2,976 human beings were torn to pieces, four years after KSM bragged about his central role in their destruction and in the unspeakable murder of journalist Daniel Pearl?

We, the families--mothers and fathers, husbands and wives, sons, daughters, sisters, brothers and friends--waited patiently, many without even the grief-softening help of a simple burial, for something called "justice." Yesterday we were told by the highest law enforcement officer in the land, Attorney General Eric Holder, that justice is finally on the way.

So, why was the attorney general's speech such a bitter disappointment? Why, after the last two years of anguish and uncertainty, did the attorney general's speech feel like yet another heavy burden instead of welcomed relief?

While the media treated the announcement as another opportunity to keep score--was this or was this not a humiliating capitulation for the president and his law man, Mr. Holder--most reporters seemed not to notice the fundamental dishonesty of his actual words and message.

Yes, the victims will get their justice, but let us be clear, not the best justice. "The best venue for prosecution was in federal court," Mr. Holder scolded. "I stand by that decision today," he said defiantly. Indeed, the attorney general spent the entirety of his speech telling us that he was delivering justice to these poor families, but of an inferior sort, not the "powerful," "well-researched and documented" case which, not only would have proven the guilt of the accused, but would have allowed us to "adher[e] to the bedrock traditions and values of our laws."

Of course, the implication was clear. Military commissions are none of this. Worse, the "unwise," "unwarranted" interference of Congress in limiting the president's ability to bring terrorists to onto U.S. soil has actually created the potential for harm to national security. How, he doesn't say. We are simply left to ponder the "serious ramifications" of Congressional trespass, which is so dangerous, the Obama administration will continue seek to reverse the irresponsible actions of the people's representatives lest they attempt to deliver second-class justice in *other* Guantanamo cases.

Today, however, we are stuck with military commissions, and here, at last, is the bitterest pill Mr. Holder coldly serves: we have to miss this opportunity for the sort of grand justice only the federal courts are capable of delivering...because the families demand it.

The families, who had waited seven long years when President Obama ground these cases to a halt, were made to wait two more years by the administration's incoherent process. Let us be clear: The families were *already* tired of waiting when the Obama team arrived on the scene. Alleged concern for the plight of the families is Mr. Holder's most contemptible conceit. Let us be crystal clear. The families had no say, no voice, no champions inside the Holder Justice Department. We were ignored, tolerated, overlooked and misled. When it was apparent that we did not support civilian trials for the war criminals who slaughtered our families, as 200,000 troops risk their lives to fight this same enemy on this same battlefield, we were summarily dismissed from the process. We were not a cooperative bunch. Here's why: the process was pre-ordained from day one, and those of us who were paying attention knew it.

Mr. Holder told you yesterday that he approached this case with an open mind, that his only goal was to look at the facts and the law and choose the venue where "swift and certain justice" could most effectively be achieved. What could be more swift and more certain than the defendants' declaration, one month before Mr. Obama took office, that they wished to plead guilty to the charges and be executed? The families of the victims, some of whom were sitting in that courtroom when he made his proffer, were elated. At long last, we could begin the end of our terrible, agonizing journey.

President Obama prevented this from going forward. It was a campaign promise that the president made, and the attorney general--then a private citizen campaigning for his candidate--told supporters Mr. Obama would fulfill as one of his first presidential acts. Indeed, on his second day in office, the newly-elected president signed sweeping executive orders which did away with all the work that Congress had accomplished in promulgating a legal framework for military commissions. And it nullified three years of case preparation by the Office of Military commissions when they were just months away from the conclusion of the case.

These campaign promises were made, and these executive orders were issued, without an examination of the evidence in these cases or in consultation with the lawyers most familiar it, namely, the attorneys drawn from both the Department of Defense and the Department of Justice who had toiled away for three years in preparation for trial. Neither candidate Obama, or President-elect Obama or newly-minted President Obama had seen one shred of evidence on these cases when he terminated them with the stroke of a pen. This was a raw exercise of executive authority without regard for the history we had all, as a nation, lived through, and without consultation with or regard for the people whose beloved family members had been so brutally taken from them on that catastrophic day.

The attorney general finished his press conference yesterday, leaving one final insult to the commissions and the dedicated prosecutors and staff at the Office of Military Commissions. He lamented the fact that federal courts don't get the proper respect they are due, and made a final pitch for them, as if they, and not commissions, have been the object of years of unrelenting assault, by him, by his boss in the Oval office, and by the legions of lawyers, law professors, human rights activists, and anti-military propagandists whose appeal to moral vanity has found fertile ground in this Justice Department.

Mr. Holder's words are a clear signal to these parties, that they have a friend in the White House and at the Justice Department, and their legal assaults on military commissions should continue apace after after the 10th anniversary of 9/11 is safely behind us.

For thousands of Americans the wounds of 9/11 will never heal. The policies of this administration cause us all to grieve anew.

Instead of swift justice, President Obama worries that a military tribunal will offend the Muslim world. What about the effect of this needless delay on the morale of the American people. America has captured the mastermind who attacked and killed us in our homeland and here we and he sit. We have been through enough! We are tired of waiting for these admitted killers to get justice. We are tired of more pain added to the wounds of 9/11. When last month we heard that President Obama will reinstitute Military Commissions, we were encouraged momentarily, only to learn that this administration will not try the 9/11 cases. We are denied even the courtesy of an explanation ... It hurts.

Mr. Chairman, the American people do not want terrorists brought to American soil.

They do not want the "mastermind" of 9/11, who is held under the laws of war, to be afforded the same rights as robbers and car thieves. While tens of thousands of our troops fight on, the enemy they fight is protected with Miranda rights and an army of lawyers. We do not want the individuals who carried out 9/11 to have any more legal advantage than justice requires. We do not want them to continue their jihad, mocking their victims, the justice system and this country, from the well of a federal court and the attendant media circus. We do not want hundreds of

millions of dollars in security costs spent, cities put under lock down, or commerce disrupted.

The 10th anniversary of 9/11 will soon be upon us. The National September 11 Memorial at the World Trade Center and the Flight 93 Memorial in Shanksville will be opening. The eyes of the world will once again be focused on ground zero.

If the trials of the men who bragged about murdering our sons and daughters have not commenced, a dark cloud will hover over that day. This must not be. The world must not see an America that lacks political will and moral courage at the place where heroes died.

Nearly 10 years ago, men and women showed courage in so many ways. They made us proud. They sacrificed. The 40 people on Flight 93 in less than one hour, their last hour of life, did the right thing. We know the result ... victory. The Capitol was spared, and in the aftermath, Congress too acted decisively. We owe it to the wonderful people we lost that day, to finally hold their murderers accountable. Mr. President, this delay is anguish. Please end it, and allow these trials to proceed immediately and without the added controversy of the attorney general's constant disaffection from what the families and the American people have made plain that they want, and this Congress has found a way to give them.

On what was to be the last morning of their lives, under horrific circumstances, so many acted with such courage and dignity and decency.

Mr. President, we ask that you do not forsake them.

Chairman Sensenbrenner and members of the committee, thank you for listening.