



## ***Free Congress Foundation Commentary***

### ***Terrorist Trick Or Treat? “East Side, West Side” - A Means Further To Jeopardize Our Security***

***By Marion Edwyn Harrison, Esq.***

*November 18, 2009*

Few, if any, would doubt the professional competence, hard work or strongly leftist views of Attorney General Eric H. Holder. Few would doubt President Barack Hussein Obama's leftist views. Thus, perhaps there is scant surprise, if any, as to the decision to forego military commissions to try the (technically and legally, merely “alleged”) terrorists in Constitutional Article III Federal Courts and to do so in the heart of New York City rather than outside our country.

Let us leave aside a handful of criminal defense lawyers, some of whom may have other motivations, in finding reactions to the decision. There appears to be very little conservative or moderate, and not much respectable liberal, commendation of the decision although when the subject was in the debating stage there was considerably more, including among United States Senators.

Those who defend the decision view the terrorists who in a single day - the now historically memorable “9/11” - killed some 3,000 innocent Americans not as terrorists or war criminals but as American residents who might have committed a common crime. Thus, they are said to be entitled to be brought into the United States from abroad, Guantanamo, and to be tried in the City which is one of the sites of their terrorism. Further, as though they were American citizens or at least American residents they are to be tried as though they were charged with common criminality.

We doubtless never will know the full motivation of those who favor the decision. On March 22, 2009, the President said: “. . . [D]o these folks deserve Miranda rights? Do they deserve to be treated like a shoplifter down the block? Of course not . . .” Senate Majority Leader Harry M. Reid (D-NV) uttered similar words on May 19, 2009: “. . . If terrorists were released in the United States, part of what we don’t want is them [to] be put in prisons in the United States. We don’t want them around the United States . . .”

We lawyers look to precedent. Is the history of trial by military commissions or the equivalent to be ignored? Are major terrorists arrested abroad to be brought to our country? Tried in civilian courts here? Imprisoned and eventually released or, alternatively, released immediately? Is all the evidence utilized to identify terrorists and to prove their acts of terrorism to be revealed publicly to the great practical advantage of every future terrorist? Might the Departments of “Justice” and of “Homeland Security” presently be misnamed?

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