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An Extraordinary Legal Journey

Norristown lawyers represent American hostages and change the federal law

Lori Litchman

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When Norristown, Pa., attorney James J. Oliver was trying to get his first student loan, he had no idea he would form a friendship that would, years later, cause him to change the law and help bring millions of dollars to hostage victims.

The friendship that Oliver formed was with former Norristown resident Joseph Cicippio, then a local bank manager who arranged the loan that helped Oliver get an education. No one could have foreseen that in 1986, after Oliver had become a lawyer and Cicippio the comptroller for American University of Beirut, Cicippio would be one of several Americans taken hostage by terrorists in Lebanon and held captive for years.

After the hostages were finally released, it was Cicippio who turned to Oliver for help, placing Oliver -- along with attorneys Carla E. Connor and Barbara A. Barnes of Norristown's Murphy Oliver Caiola & Gowen -- into the center of unprecedented, international litigation to bring compensation to Cicippio and other hostages. In Oliver's words, "It was a long haul."

This past October, President Clinton signed the Justice for Victims of Trafficking and Violence Protection Act of 2000, freeing millions of dollars from frozen Iranian assets to pay Americans held hostage in Iran. The law cleared the final obstacle to relief for the hostages, who won a \$65 million judgment plus \$7.5 million in post-judgment interest more than two years ago in federal court. But Iran refused to pay, and new legislation was needed.

"In my heart of hearts I always felt there was going to be some resolution to it all," Oliver said in a recent interview.

Oliver had taken the case on a normal contingency basis. The case has been wending its way through the courts and Congress for years. And if it weren't for his lawyers taking the lead, Cicippio said, the hostages might not have won the battle.

"Most of the credit has to go to the lawyers, because they did not give up," Cicippio said in a telephone interview. "I don't think any other law firm over all these years would have kept up with it."

The former hostage, who now lives in Virginia, said his lawyers fought hard even though they were well aware that due to the contingency agreement, it was possible they would not get paid.

SEEKING JUSTICE

Terrorists kidnapped Cicippio shortly after he left his Lebanese apartment early in the morning of Sept. 12, 1986. He was held hostage for the next five years, interrogated, threatened with death and castration, and forced to live in a scorpion- and rodent-infested cell.

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Oliver also represented Frank Reed, a U.S. national when he was kidnapped in September 1986. He was fed arsenic and held in Lebanon for 1,330 days, spending two years in solitary confinement.

The wives of two of the former hostages, Elham Cicippio and Fifi DeLati-Reed, were also listed as plaintiffs in the case.

David Jacobsen, another named plaintiff, was working for a medical center near the American University of Beirut as the chief executive officer when he was kidnapped by terrorists while crossing an intersection in May 1985. He was released in November 1986.

Throughout the years, Oliver, who focuses his practice on complex tort litigation, had represented Cicippio in personal matters and always maintained contact with him. After Cicippio was freed, Oliver said he did research to see if there was any way the former hostage could be compensated for what he went through.

One day, walking through Valley Forge National Park, the two men discussed their legal options. Even though no one had filed a lawsuit of its kind at the time, Cicippio and Oliver decided to go for it.

Cicippio steadfastly said he was "never" reluctant to file suit.

"A lot of people at the beginning said, 'You don't have a chance,'" Cicippio said. Now, he said, many of those same people have joined the crusade to receive compensation for what they endured.

He said he is very "proud" of his attorneys for their work.

LEGAL OBSTACLES

Oliver first sought relief under the Foreign Sovereign Immunities Act. At the time the original suit was filed, the language shielded foreign countries from civil action in U.S. courts with only a few exceptions, one of which was commercial dealings.

Oliver argued that the taking of the hostages was commercial activity. But the argument was rejected, first in federal court and then at the Supreme Court in 1995.

Oliver then drafted a proposed amendment to the act and took it to United States Sen. Arlen Specter, R-Pa.

Although the State Department argued against it, the amendment was passed in 1996. Then Oliver refiled the suit.

The amended act allowed American courts to take action against governments designated by the U.S. Department of State as a "sponsor of terrorism." The act does not allow for the collection of punitive damages.

Iran was served in April 1997 as part of *Cicippio, et al. v. The Islamic Republic of Iran* but did not respond to the complaint causing the case to be tried ex parte.

But even though Iran did not participate in the trial, Oliver still had to prove a case for his clients.

The case was tried before Judge Thomas Penfield Jackson of the U.S. District Court for the District of Columbia for approximately three days.

In making his ruling, the judge identified the hostages' captors as the Hizballah, a political terrorist group financed and controlled by the Republic of Iran. Iran has also been identified as a sponsor of terrorism since 1984.

In the summer of 1998, Cicippio's case was the first lawsuit by former hostages to get a verdict, Oliver said. Judge Jackson ordered Iran to pay \$65 million plus lost wages to the former hostages.

But Jackson knew that getting Iran to pay the money would be difficult. Since Iran did not submit to the lawsuit, the only way to get the money was to draw upon the more than \$400 million in Iranian assets in the United States.

Jackson went so far as to pen a letter to Secretary of State Madeleine K. Albright, asking her to help the hostages recover the money the court awarded.

"These plaintiffs have suffered greatly, and are most deserving of compensation," Jackson wrote. "With apology for any presumption it may represent, I urge the Department of State to give as much assistance as possible to them in obtaining satisfaction of these judgments."

Oliver said he thought Jackson's gesture was "over and above the call of duty."

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"I've never seen a judge do that, to be quite frank," Oliver said. "It's kind of rare for a federal judge to be writing to the secretary of state after issuing an order."

But the letter apparently did not help much in the battle for the money. Oliver said the State Department was not very sympathetic to the plight of the hostages.

"I thought initially that once we got a judgment that the U.S. government would have honored that judgment against the frozen Iranian assets," Oliver said.

Connor, who assisted Oliver at the trial, said she had "serious reservations" about whether they would be able to collect the award but knew they would try as hard as they could to do so. Oliver said he and his associates would read newspapers and see indications that the U.S. was unilaterally trying to reopen relations with Iran.

"We were wondering what they were doing because it was starting to worry us that they were trying to open up these relationships and maybe it was going to further impede our collection process," Oliver said.

So Oliver and his team began to lobby Congress.

Oliver said Sen. Frank Lautenberg, D-N.J., and Sen. Connie Mack, R-Fla., introduced the Justice for Victims of Terrorism Act (which was signed under a different name) in the Senate and were very vocal about it. Oliver said that his clients also received help from U.S. Rep. Bill McCollum, R-Fla., and, locally, from U.S. Rep. Joseph M. Hoeffel, D-Pa.

Once approved, the bill would specifically provide an avenue for the United States to "compensate victims of acts of international terrorism that occur outside the United States for expenses associated with that victimization."

And the rest is essentially history.

As more hostage cases came to verdict, support grew for the bill. The legislation was approved unanimously in the Senate and with only one opposing vote in the House of Representatives. The president signed the bill into law in October, and it became Public Law No. 106-386.

FINAL CHAPTER

As a legal endeavor, Oliver said he found the case to be "personally rewarding" and a tremendous learning experience.

Oliver said approximately \$300 million will be doled out to hostages across the country out of the more than \$400 million in frozen Iranian assets.

Jackson had broken down the amount of the judgment in the Cicippio case, awarding Cicippio \$20 million, Reed \$16 million, and Jacobsen \$9 million. The wives of Cicippio and Reed each received \$10 million.

Oliver wouldn't specify what contingency percentage was involved other than to say it was "typical," which means his firm would reap approximately \$24 million in fees.

With the passage of the law, the money was then wired into Murphy Oliver Caiola & Gowen's account to be distributed to the victims, with the hope of closing not only a chapter, but the entire book on the hostages' ordeal.

"I didn't believe anything until they paid the compensation," Cicippio said. "Then I believed it was all over."

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