

The Response

Look at the Moon Productions, Venable LLP,
University of Maryland School of Law
Baltimore, Maryland and Washington, D.C.
Sig Libowitz, *Writer/ Producer/Cast*
Adam Rodgers, *Director*
Aasif Mandvi, Kate Mulgrew, and Peter Riegert, *Cast*



COMMITTEE COMMENTARY

This riveting 30-minute courtroom drama concisely illustrates the legal and ethical challenges of enemy detention in the war on terror. Based on the transcripts of Guantánamo military tribunals, *The Response* brings viewers inside an administrative hearing to determine whether a devout Muslim civil engineer from Pakistan (“Mr. Al-Aqar,” compellingly portrayed by Aasif Mandvi of *The Daily Show with Jon Stewart*) should continue to be designated as an unlawful enemy combatant and held without trial. The taut narrative depiction of Al-Aqar’s examination before a Combatant Status Review Tribunal (CSRT), and the difficult decision its three judges must make, provide the filmmakers with a vehicle to examine the most fundamental issues of due process, as they seek to balance individual liberties with national

security interests. These liberties include the right to counsel, the efficacy and moral legitimacy of torture, and the use of hearsay and other evidence—the very substance of which is kept secret from the accused. With superb production values and excellent performances (including, in addition to Mandvi, those by veteran actors Kate Mulgrew of *Star Trek: Voyager* and Peter Riegert of *Crossing Delancey and Traffic*), *The Response* brings its legal and conceptual issues into crystalline focus, while engaging viewers every step of the way. That it pursues this examination without losing its ideologically neutral, balanced tone is yet another measure of its achievement. Thoroughly vetted by University of Maryland legal scholars, the program represents an ideal partnership of the legal academy and the arts.



Sig Libowitz



Adam Rodgers

INTERVIEW with Contributors to *The Response*

Sig Libowitz is an attorney with Venable LLP and former studio executive. He was the writer/producer on The Response. Adam Rodgers was the film’s director. Karen Rothenberg, dean of the University of Maryland School of Law, and Geoff Garinther, chair of the Litigation Division at Venable LLP, were executive producers.

Where did the initial idea for *The Response* come from? How did you get involved in the project?

SIG LIBOWITZ: This is a well-deserved plug for education. I got the idea to create *The Response* based on a Homeland Security class taught by Michael Greenberger at the University of Maryland School of Law. It was a great class and I love this area of the law because it’s literally being created while we’re living it. Anyway, we were reading cases coming out of the courts that were attempting to interpret the Bush administration’s detainee policies and how that was being played out in Guantánamo. The opinions are often highly contradictory, and there in one case, for the first time, I came across a page of the actual tribunal transcripts (officially known as the Combatant Status Review Tribunals or CSRTs). The judge in that case attempted to publish several pages of the transcripts, but the government had redacted all but one. That one page, however, literally stopped me in my tracks. Just off that page, and having learned how the CSRT process operates, I knew there was the potential for an amazing film. That led me on a legal and creative research trail to uncover more and more transcripts. And after a year or so, I had read hundreds and hundreds of pages and developed the script from that.

ADAM RODGERS: As the son of two career journalists, Sig’s initial pitch got my attention. I thought I was pretty knowledgeable about Guantánamo., but when I read the script I realized I had no real idea of what was happening. The screenplay’s great strength was its ability to humanize a situation that had become somewhat abstract. Guantánamo Bay had been reduced to nightly news stock footage of guys in jumpsuits and shackles shuffling behind chain-link fences and barbed wire. But the script had transformed the abstraction into drama.

What resources were required to develop your movie? What did it take to get them committed to your project?

KAREN ROTHENBERG: Even before there was a final script, the University of Maryland School of Law agreed to commit financial resources to the project through its Linking Law & Arts program. Through a generous grant from the France-Merrick Foundation, the School of Law was able to support costs associated with the film. In addition, 20 law school faculty and staff members provided hundreds of hours of in-kind services in support of the film, including technical advice on legal issues in the film, production management, media and public relations, and

information technology support. The law school served as the location for three days of filming.

Why did you decide to make a drama? What advantages does it have to offer in treating legal issues and legal institutions? How does it do so?

LIBOWITZ: Film adds a perspective that you just can't create in another medium. At its core it is a courtroom drama. It's not a dry recitation of facts. It's not educational medicine. People really like courtroom dramas and I think the film works because the audience is very involved with the characters and what's transpiring before their eyes.

GEOFF GARINTHER: To say the topic is timely would be an understatement. The movie treats this polarizing topic with fairness and diligence by presenting the audience, in

the vein of *Twelve Angry Men*, multiple facets of the debate regarding the tribunal's process through the lens of a detainee and three tribunal judges. Instead of manipulating the audience toward a defined outcome, *The Response* compels the audience to make its own determination of guilt or innocence.

What does winning the Silver Gavel Award from the ABA mean to you?

RODGERS: Filmmakers first dream about getting their movies made, then about finding an audience, and, if they're truly fortunate, about making an impact. It's enormously validating to feel like we've made a contribution to the debate over an important legal issue of the times and, given the caliber of past Silver Gavel winners, a wonderful honor as well.

EXCERPT

Tribunal

COURT RECORDER: The allegations forming the basis of the detention: the detainee, while living in Pakistan and Afghanistan, associated with a known Al Qaeda cell and gave material support to an Al Qaeda operative.

COL. JEFFERSON: What have you to say to this allegation, Mr. Al-Aqar?

AL-AQAR: How can I answer it? For more than four years, I cannot answer this. Give me his name. The name of the person who says I helped Al Qaeda. How can I respond to this charge?...

JEFFERSON: Sir, we are asking the questions and we need you to respond to what we ask and only what we ask. Let's move on.

Judges' Deliberation

COL.SIMMS: (reviewing the court record) Bomb-making ... explosives training leading to the deaths of over 40 U.S. soldiers. Plus, two attempted bombings of U.S. embassies. This is a hell of a report.

CAPTAIN MILLER: Question—the tribunal rules allow us to consider hearsay and even confessions that are the result of torture, correct?

COL. JEFFERSON: That's correct, if you find that it's reliable.

MILLER: Well, that's my first question. Seeing as this is my first tribunal, how exactly do we determine the reliability of the evidence? On what basis?

JEFFERSON: This is my third tribunal, Captain. When I figure it out, you'll be the first to know.

SIMMS: We look at the totality of the circumstances. Does the evidence match up with the other facts? Who is the witness? Was there really any torture, or is it all just a story—which happens. What did the detainee do or say that corresponds with the classified evidence? Use your common sense.

MILLER: So, in this case?

SIMMS: In this case, the captured informant knew our detainee's name, address in Afghanistan, engineering background. Couple that with the declaration from our own intelligent services, and it's a ...

JEFFERSON: ...All of which the detainee had no chance to respond to because, as an alleged enemy combatant, he's not allowed to see or confront the classified evidence against him.

SIMMS: And those are the same rules that all detainees must

MILLER: — So, there's this informant who is maybe being tortured, and he might be naming names to stop that. And we're supposed to evaluate this tortured informant's

SIMMS: — Allegedly tortured informant.

Miller is stopped cold. The three officers look at each other.



Go to www.theresponsemovie.com to find out about screenings, view clips, and learn more about the film and its subject matter, cast, and crew.