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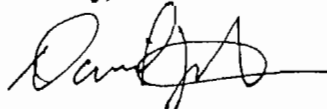
April 23, 2008

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Attached are my responses to written questions from Senator Specter. Also, I would like to clarify an answer that I gave in response to a question from Senator Specter during the hearing on April 3, 2008. I stated that the complaint filed against me by former TSA attorney Carla Martin remains pending within the Office of Professional Responsibility (OPR) at the Department of Justice. In fact, as I understand it, OPR completed its report on March 27, 2008. The Department's findings on this matter will not be final, however, until an expedited review process is completed. I apologize for any confusion caused by my answer during the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Novak", with a stylized flourish at the end.

David J. Novak

cc: The Honorable Arlen Specter
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Responses of David J. Novak
Nominee to the U.S. District Court for the Eastern District of Virginia
to the Written Questions of Senator Arlen Specter

Mr. Novak, during the Judiciary Committee's hearing on your nomination, you alluded to remarks that the judge in the trial of Zacarias Moussaoui trial, Judge Leonie Brinkema, made about you and your work with the families of the victims of the 9/11 attacks.

1. Can you elaborate on what exactly the judge said on the trial record?

At the conclusion of the case on April 24, 2006, United States District Judge Leonie Brinkema said the following:

I think the record should reflect, regardless of what the decision of this jury is, that all the attorneys in this room, plus many of their predecessors, have done an extraordinary job in marshaling a quantity of evidence and a quality of evidence that is unprecedented.

The prosecution team gets particular credit for being absolutely fastidious in bringing many problematic issues to the Court's attention. Lesser prosecutors might not have been as vigilant and as diligent as you-all were. Many times it cut against your case, but you did so as true officers of the Court. And did you extremely well in that respect.

April 24 Transcript ("Tr.") at 4821. After the jury returned their verdict on May 3, 2006, Judge Brinkema stated:

And as I've said before, in particular, given the difficulties we've had in this case, the way in which the prosecutors were completely forthcoming with any potential problems really is a credit to their professionalism.

May 3 Tr. at 4863.

On May 4, 2006, Judge Brinkema said the following during Moussaoui's sentencing:

Nobody will probably ever truly know how incredibly complicated it was to put this prosecution together. These prosecutors and their investigators, who started working this case from September 11 of 2001, have spent untold hours slaving over minute details and, based on some of the evidence you-all saw in this courtroom today, some details of some graphic and horrendous nature.

These prosecutors met with nearly every family member of a victim whom they could met. Mr. Novak in particular spent years talking to victims.

* * *

And a lot of the evidence in this case was classified, and both the prosecutors and the defense attorneys had to work around classification issues that were at one point, we all thought, insurmountable, and yet because we were dealing with extraordinarily professional attorneys for both sides, this evidence was able to be brought together in a format and presented openly in a public court of law.

The prosecutors on this case from the beginning . . . have been outstanding, as I said yesterday . . . Mr. Novak has been on this case almost from the beginning and had to leave his home to be up here, as has Mr. Raskin.

* * *

What was extraordinary about this case as well as the amount of evidence to which the parties were able to stipulate. If there ever was a difficult case, this was it, and yet the lawyers on both sides, as vigorously as they advocated for their positions, were able to come together and work out stipulations so that the evidence could be presented publicly and be evaluated in that respect.

May 4 Tr. at 15-17.

2. Can you describe your involvement with some of the families of the victims of the 9/11 attacks?

Like every other American after the September 11 attacks, I wanted to do anything that I could to help the victims of the attacks. I was honored to be selected to serve as one of the three prosecutors of Zacarias Moussaoui, the only person convicted for his role in the attacks. In addition to my legal work, I assumed the responsibility to meet the needs of the victims. I quickly realized that the enormity of the crime should not be measured by the quantity of those murdered, but the quality of the lives lost that day — that each person who died that infamous day was loved and cherished by many different people for many different reasons. I decided, therefore, to treat the case in the same fashion as if it involved a single victim.

For these reasons, we interviewed every family member of a September 11 victim, who wanted to meet with us, about who their loved one was and what their loss meant to them. These interviews happened in New York City, Boston, Princeton, and Arlington. Moreover, we repeatedly briefed family members about what we knew about the attacks and how their loved ones died. After one such session in Boston, the Director of the Massachusetts 9/11 Fund wrote a letter to me, which I have attached. We also arranged for counseling for those who sought our help and I personally spoke to any family member who wanted to understand our prosecution.

Furthermore, on behalf of the prosecution team, I ensured that Closed-Circuit Television broadcast of the trial was implemented in Boston, New York City, Long Island, Newark, Philadelphia and Alexandria, pursuant to the bill passed by Congress.

I would like to think that I offered a shoulder for the victims to lean upon as they dealt with their grief. After the Moussaoui trial was over, a local Richmond lawyer, who lost his firefighter brother-in-law at the World Trade Center, graciously wrote an unsolicited letter to the editor of the *Richmond Times-Dispatch* on May 14, 2006, that described my work with September 11 victim family members. A copy of that editorial is also attached. (Please note that the editorial refers to me as the lead prosecutor when, instead, I was one of three members of the prosecution team). I respectfully submit that this editorial best describes my support of the victims of the September 11 attacks.

The Massachusetts 9/11 Fund



David J. Novak
Assistant United States Attorney
Senior Trial Counsel
United States Attorney's Office Eastern District of Virginia
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Alexandria, Virginia 22314

Dear Dave,

I wanted to take a moment to thank you formally for bringing the Department of Justice briefing to Boston.

It is clear that you and your team are committed to the pursuit of justice for our nation and for the families of the victims of the tragic events of September 11th. It is evident that you are more than up to that daunting task as a prosecutor, and for that we are grateful.

However, we are equally as grateful for the compassion you bring to the process personally. Given the magnitude of this crime, one could easily overlook the individual victims and focus on the enormity of the act itself. Instead, you capably balance the needs of the victims with your responsibilities to the court and our nation. No easy feat.

You may have the intellect of a prosecutor, but you have a social worker's soul. This was never more evident than in your flexibility and focus on the families and their needs. For this, I personally thank you.

I have long believed that, for victims of crime, the path to healing runs parallel to the path for justice. At those points where the paths might intersect, as they ideally should, the burden can be eased somewhat for the survivor, allowing a true opportunity to heal. Thank you for allowing the families to meet you at this crossroads. I know that, in time, we will all benefit from it.

I'll look forward to seeing you on CCTV in Boston this spring.

With best regards,


Linda Plazonja
Executive Director

Moussaoui Prosecutor Served Nation Well

EDITOR, TIMES-DISPATCH:

Thank you to David Novak, the lead federal prosecutor of Zacarias Moussaoui. Let us speak no more of this evil one whose transgressions against man and God have earned him mortal oblivion and eternal damnation. Instead, let us rejoice in this neighbor's return to Richmond from Northern Virginia.

For four years, Novak, an assistant United States Attorney, has been largely absent from



CORRESPONDENT
OF THE DAY

his family and community. Selflessly serving us all as head of this Alexandria-based prosecution, Novak has borne the insoluble loss of family members and the immeasurable pain of 3,000 victims who perished that tragic September day.

He has endured the privations of family and friends, shared the searing despair of victims here and gone, and accepted the burden of a nation's expectations because — as with the dedicated men and women on his team — he would not blink in the face of Islamist terror.

And he did not blink.

I know this because my family and I have walked with Novak these past four years. We sat with him in April, 2002, in Manhattan and described what



Novak

the loss of our Daniel — our fire-fighter hero — meant to his wife, infant daughter, parents, siblings, and friends.

I sat with Novak in Alexandria, in the shadow of the Pentagon, honoring one heart-rending account after another of the loss of a patriot father, mother, or child. While my wife and I attended school functions for our children, Novak's wife attended those same functions alone, her husband 100 miles away tirelessly preparing for a case unprecedented in its complexity and demands.

We sat in the courtroom and watched Novak compassionately elicit the testimony of survivors whose haunting expressions of horror and loss indelibly marked our souls.

And yet, through it all, at the epicenter of this national tragedy, Novak stood, comforting hand on our shoulder, calmly resolved to see justice done. And justice has been done.

Some surely would have preferred a sentence of death. For others, it is enough that dreams of martyrdom have met the reality of isolation in a living hell. Either way, an evil man will menace us no more.

Thank you, David Novak — and welcome home.

MIKE KLEIN.

RICHMOND.