

**ACTING PATRIOTIC COLLECTION
SEPTEMBER 11 DIGITAL ARCHIVE**

**INTERVIEW WITH NELLY HESTER BAILEY
CONDUCTED BY JAMES RIDGEWAY
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Q. Alright. So, you know, just...first of all, just say your name. I am...

N.B. I am Nelly Hester Bailey.

Q. Right. And...and tell us about your organization.

N.B. Well, I run a tenant advocacy organization. We mostly concentrate on tenants' rights. We try to combine advocacy with activism. We've been in business since 1995 when the organization was founded. Fred is a member of our Board and mostly now our work is centered around anti-displacement which is really spurred by gentrification. The commercial real estate has a...has an impact on the residential market--real estate market and it is just sort of a revolving door.

Q. But so most of it is really just...it's housing issues that...

N.B. Housing. But what we've attempted to do is just not to isolate our concern just on housing. We try not to compartmentalize housing because we see housing as...as intersecting with all other sort of sectors of life in a community, all other quality of life issues. Even if you're dealing with domestic violence, if you don't have the housing in place that becomes a problem. If you're dealing with foster care you don't have the housing in place...in place, that becomes a problem. When you deal with special needs population, housing rights are at the core of that. So we look at housing as an extension of all of these other issues that we're concerned about and maybe you can put them under the broad umbrella of...of, you know, quality of life. I think that's something that Giuliani came up with. I hate to use it but, you know...

Q. So when did you first meet Fred?

N.B. Wow. Gee. That goes back a long time because my first impression...my first instinct is to talk about how long he's been with the Harlem Tenants Council on the Board. But I met Fred almost...at least over a decade ago.

Q. And how long has he been on the Board?

N.B. Fred has been on the Board for about four years.

Q. And, like, when did you first hear about and how did you first hear about this, you know, his arrest situation?

N.B. I heard about it the next day. And I suppose...Perhaps someone has talked about the circumstances of Fred's arrest. We were...we were together at a rally. It was sort of a budget cut, anti-war community rally that was held at a local church, St. Mary's church. I was one of the keynote speakers. You know? We talked...it was a very diverse audience. We certainly touched on the Middle East because of the crisis at the time and certainly connected it to the budget cuts where and that we needed money here, not abroad, and that the issue was really about butter, not guns. So Fred was at that meeting. And you know about the circumstances that took place after the meeting. So I was informed, I think, two or three days later on the day of his actual arrest, of what had taken place.

Q. So, as I remember, Fred and a friend were at the meeting and the friend, I guess...and Fred picked up pamphlets of something.

N.B. And then...Well, this gets a little tricky in that the person who...who was part...the...the person who was part of this...this...this group which led to the circumstances of Fred's arrest, he himself has been arrested now and I...I don't know how...how much of that we should go into or whatever. But the circumstances of that...At that meeting both Fred and I were given photos of martyred deceased Palestinians, you know, and I understand that these photos were also included in a folder that later on became part of a package, if you will, that was left at the restaurant and which Fred, after on, went back to retrieve. But I'm getting ahead of myself.

The story as I understand it...after Fred left the church after the rally, he and two other people, perhaps a couple of people, went to a local restaurant. This is very curious because it's a local restaurant that is frequented by members of the New York City Police Department. It's one of those local spots, favorite spots of police officers, and they had, I'm sure, a pretty harmless discussion, perhaps what had transpired at the Church. The envelope was...(inaudible)...left in the restaurant. It didn't belong to Fred. It belonged to this...this other gentleman who was...who is a Palestinian and who has since been arrested--picked up by Immigration. The packet...The folder was inadvertently left in the restaurant. Fred was contacted, I think, two or three days later or the next day and asked to retrieve it. He went back to the restaurant. It wasn't there. There was some explanation or excuse that had been given to the owner of the restaurant, which in itself is very curious, I mean, an innocuous little package that's left. I mean, even if it was photo--photographs it was pretty harmless. These things were accessed off the Internet, I mean, so it was hardly any secret or...or part of any, quote, terrorist propaganda. I mean, this was public information. And when Fred went back to retrieve it the first time he was told to come back again, and I think he made several other attempts. He was told to come back again.

And then, later on, when he did return, the agents were there to arrest him. And then, I understand, later on, they went to Fred's apartment. My involvement at the time, particularly after his arrest, because not only is Fred a member of the Board but he's also a very good friend and he's also a valuable member of this community. He has...His analytical skills and just his political insightfulness has been of tremendous help in terms of developing strategy, particularly about anti-displacement within my...within our organization, Harlem Tenants council, so I want to leave the impression of Fred as being more than just a member of the Board but also a very good friend, a valuable member of the community with years of activist work...work, not only with the Harlem Tenants council but with the...(inaudible)..coalition.

Q. Yeah. Just to return to those pictures that...that they took away,

N.B. Um-hum?

Q. Did you actually see the photos yourself?

N.B. Yes. Now, I am assume that...that...I am assuming that they were in the envelope because this...this...this Palestinian also gave me...I think Fred and I were the two people who he gave copies of these copies to. They were color photos. They were dressed in...in traditional, you know, Palestinian dress. I believe one had...one was holding a gun or something like that but...and later on we...we learned that it had been downloaded from an Internet site and I...I think I may have even gone to the site myself or something like that. The...the details are a little sketchy. But it was...but the point is, it was very harmless. And if they are deceased what's the threat.

Q2. Do you know what the site was called?

N.B. Pardon me?

Q2. Do you know what the site was called, the Web site?

N.B. I don't know off hand, but I think I have it written down somewhere and I'll try to get it to...I'll try to find it.

Q. So, okay, go ahead. So what happened then?

N.B. Well, after Fred was...was arrested of course it...it sent shockwaves not only with our staff at the office, including the volunteer staff, but certainly in the community where he is, and so the pressing and urgent need became how do we get him out of jail? What are we going to do? How do we organize? And...and I must say, you know, a number of people, but mostly Tom—Tom D'Amato, West Harlem Coalition--provided, I think, you know, sort of incredible leadership just in terms of getting things together, as well as Fred's roommate, George Gruenthal. And, you know, we...we had, I think, a pretty good communication system in that the minute he was arrested I was told. I got something out on the Internet. George, later on, get something out on the Internet so people knew.

We immediately got help from friends at NYU Law School. They have an immigration clinic there, who we were able to call with advice. We were initially concerned because the first lawyer recommended in Fred's case turned out to be less than what we had expected or wanted in terms of moving expeditiously getting him released, and just really trying to ascertain under what statute or...that Red was being held, you know? Whether or not it was serious; whether or not there would be an open hearing; whether or not there would be a close hearing. So we were pretty much in the dark. So initially our concern was trying to ascertain exactly why they were holding him and whether or not it was, I guess, just...just in terms of various classifications that they are holding these people under, top security, less security or whatever. That's what we were concerned about because it seems pretty clear that that would be an indication of the charge in which they would try

to level against him. So the first thing was trying to ascertain just what it is that they were charging him with because that to a certain extent, as it dic--dictated whether or not we could see him, when we could see him, so forth and so on.

Q. What...what did they charge him with?

N.B. well, I'm not exactly sure. What...what...I think it was that he...he did...he was not in compliance with his immigration status. Isn't that true, George?

G. Yeah, that he didn't have...(inaudible)...

N.B. That he didn't have his green card; he didn't have his proper papers.

Q. So...okay. So what happened? You...you then get a lawyer?

N.B. Yes. There was a lawyer whom we initially contacted. As a matter of fact, it was a referral that came through a person who was involved in the incident...I mean, not in the incident but rather who was with Fred at the time of the night that the package was left in the restaurant. But there was some issues there. I think, as we begin to work our way through this minefield of confusion and government secrecy there are all of these other things that come into play that you begin to notice. First of all, the...the lawyers and their approach to the problem, some far more serious than others, and because so many detainees have been rounded up and they don't have a clue as to the quality of legal help that is available to them, that you really have a number of charlatans out here operating. So you have to work yourself through this mine field of opportunists and those people, you know, who may have about ten or twenty calls to their office and maybe two or three cases but it's about how they're going to get paid opposed to when is he going to get out, what are the charges? So forth and so on.

Q. Can you give me a couple of examples of what you encountered?

N.B. Well, this...this...this lawyer who we initially had or was contacted for a long time did not even interview Red; had not talked to him for days. No follow up. And of course, you have to imagine, we were concerned not only about him being in jail but how he was being treated and how he had been treated before. We didn't know, particularly since there is so much secrecy—secrecy surrounding these proceedings and the arrest of the detainees so we didn't have clue. So the point was everyone was worried sick: well, how is he doing? What's going on? And then certainly later on, as Fred's roommate, George, was able to get in contact with Fred, we began to learn that everything was okay. And...and, of course, Fred is very observant and just in terms of just sort of the...the conditions inside the jail and the political implications of those things that were taking place. For example, the whole telephone thing that they have which...in which the detainees have to pay an exorbitant amount of money either there for the call or if it's a long distance call the rates are three or four times higher than ordinary long distance calls.

So it...it would appear to me that there has grown up around this whole detainee thing as it does because, you know, it's all about money, it's a little cottage industry: the phone, the commissary, the this, the that, the lawyers, I mean, it's...because it becomes a business. It becomes a business. And

the longer the detainees are inside, you know, they have to have commissary money, they have to make calls, and...and...and it sort of adds up. And if you have a...a spouse who's the head of household, just trying to communicate with his family and just being there for an undetermined amount of time, you can imagine the financial toll in addition to the emotional toll on the family. And we're just Fred's friends, not his immediate family and it was terrible on us.

Q. So did you go see Fred at all?

N.B. The day...Tom and I went out...no. I saw Fred when he was in court and we were all there. And I think that was a great moment because we literally filled the courtroom. And when he came in I just think...think that it just, you know, I thought he was going to float on the smile that...that he beamed at us when he saw everyone there. And I think it had an impression on the court that we were there for Fred. And I think in...in the final analysis it did have an impact on the court. So with re-with respect to your question, no, I did not visit Fred in jail. I saw him in the courtroom. We have chance to talk with him.

On the day bail was posted Tom and I went out where we stayed at the sort of processing center where you pay the bail. We were there all day with the bail being processed. It was processed toward the end of the day, I think around 4:30 or...and we got to the Immigration Center where Fred was held in the early evening and they just kept us waiting. They...when we came in they said: Yep, okay. We're going to call over, let the marshals know that you're here, although we don't know when they're coming. It may be in a few minutes. It may be in a couple of hours. We don't know, but just sit tight. And so Tom and I sat and we sat and we sat and we sat, and after about, I think, four hours we- after going back and forth- we were a bit more insistent and they said: Oh, he's not coming down, no. That some...they didn't tell you that?

And then so...so finally we left and...and Fred was released a day or two after that and he sort of came on. But they kept us waiting for a very long time. But what was very interesting while we were there, the mem--the visitors coming in to see the prisoners overwhelmingly, ninety-nine percent black and Hispanic; in terms of the immediate relations, all under thirty with very young children. It was...An a lot of people coming in. Remember, we were there for a long time. And the waiting room itself began to slowly resemble almost like a holding pen. You know? And then, as we began to move about and talk with the families who were there, one woman said to us, like, Oh, they play this all the time. Oh, you come out here they'll say the prisoner is ready but it's not, and you come out again and again and again. And apparently the problem was that the...the processing office had not transferred the papers to the Immigration Center for Fred's release although they said that they were going to do that. And she said sometimes it would take days or weeks for those papers to get transferred and families were just, you know, left waiting, just waiting, waiting, waiting.

Q. So where was the bond set at?

N.B. It was set at ten thousand...Five...Five thousand, five thousand dollars. Five.

Q. Had there been any bond set before? This was the first?

N.B. No. That was the first. It was five thousand.

Q. It was the first actual hearing Fred had?

N.B. That was the first hearing. It was set at the first hearing. The...yeah. Yeah, it was...

Q. He'd actually been arrested and held for what? A couple of months before he actually had a hearing?

N.B. It wasn't a couple of months. It was

G. Five weeks. No, five...five...(inaudible)...

N.B. It was about five...five or six weeks. I thought it was closer...I thought it was close to six weeks. But we over a month. Well over a month.

Q And this was all in immigration court?

N.B. Yes. Yes.

Q. There were...Were there any other Federal agents or...you mentioned marshalls. Were there any...anybody else from the Federal government around?

N.B. You mean in the court proceedings or...

Q. Well, that you ran across at all in...in this whole experience, I mean, FBI agents, ATF agents, prosecutors, anybody from the Federal government?

N.B. Well, of course, at the...at the hearing itself there were certainly the prosecutors there for the...for the other side. But I think we were really lucky with Fred in the...with the attorney who represented Fred who was very, very good; extremely conscientious, and I thought dealt a wonderful sort of blow for the defense in the courtroom proceeding because he negotiated with the sort of immigration attorney who was there who...an I guess obviously there had been some determination made on another level made as to the...the...the lack of seriousness of the charge against Fred. I think that was pretty clear, because initially when we spoke to the lawyer, we all went out as part of a delegation, and this is when the lawyer was unable to find out anything other than basically that Fred was being held. He didn't know whether or not the hearing that we all went to would be closed or open because...because according to him the seriousness of the charge is how they assess charge or ascertain the charge would dictate the openness...the hearing being open or closed. So we didn't know that initially. And he sort of laid out a number of things that we should expect. He laid out the best possible scenario, which is what he later won on, and then he laid out the worst possible scenario, that the hearing would be closed, that he would be detained indefinitely; that he might be...just any number of things. So the legal representation and the lawyer I thought was...was very good and that sort of prepared us.

Q. Now at these hearings...

Q2. If we...sorry...(inaudible)...the wire. Thank you.

Q. At this hearing did anybody mention these pictures or terrorism or anything like that?

N.B. No, no, no, they didn't because I think the hearing was strictly to determine whether or not bond would be...bail would be set or bond posted. The...that was...that was the determination that was being made, which was very important, according to the lawyer, because obviously it meant whether or not he would stay in jail for a longer period of time or whether or not he would be released. So that was...the...it was a bond hearing.

Q. Now, since this thing happens, since the meeting actually, have the...have the police or any agents or anybody come and talked to you?

N.B. to the office? No.

Q. Or to you? Any--anyone?

N.B. No, no, no, not at all.

Q. So do you know. Have they ever talked to anybody involved with that meeting or any of your group or...

N.B. Not that I'm aware of. No that I'm aware of at all.

Q. But then you mentioned this one other fellow was arrested recently?

N.B. Yes. His name is Faruch. It was...it was covered in some of the local papers here. He was...He was arrested and he was part of the group of folks who met that evening. That's really very curious because I thought, you know, sort of given their sort of sweep and sort of looking and peering under every cover and corner the they might pay a visit to the...to he office, particularly since they...I assume that they knew that Fred was on the Board. I mean, we were sending letters to the attorney that was introduced into the record so Fred's name was on the letterhead. But we haven't...we haven't...w haven't had any...We did not have any visits.

Q. And you haven't been aware of any kind of surveillance or anything lie that?

N.B. No. The only thing I can say, and this might be pure coincidence, is that since Fred's arrest we've had terrible problems with our telephone; terrible problems with our telephone. Terrible, terrible, that we did not have previously.

Q. Like what?

N.B. Services being off for a very long time. You know? One line off and the other line on. You can't get the calls transferred. Phones just recently was off for seven days. Prior to that, less than a week ago, they wee off three days. Prior to that the phone was off two or three days. Prior to that

the phone...I mean...you know? It's...but perhaps it's just coincidence. There's nothing you can do about it anyway so that's what we like to say. You know, but what can you do about it. But just in terms of any changes that stands out about the office is that we've had these incredible problems with our telephone.

Q. So when you went to the hearing how many people went with you?

N.B. Well, we had...we had an organized sort of caravan and a load of folks, I would say maybe ten or twelve.

A2. It was altogether sixteen.

N.B. Sixteen! Oh wow.

A2. All of whom knew Fred kind of apart from us mostly.

N.B. Oh, apart from our group...(inaudible)...

A2. ...(inaudible)...children were there.

N.B. Okay. So about sixteen people, yeah. I thought it was about twelve or thirteen. So it was sixteen. Okay.

Q. So now, is there anything we haven't talked about here you'd like to say about any of this?

N.B. Yes. I would like to say a couple of things. Fred didn't...(inaudible)...even though the case is not over, but it looks as if we might have some kind of positive solution to this problem; that his case represents perhaps the lucky folks. And those numbers are far fewer than...than they should be. And the manner in which he was arrested, with everything aside because they had not made any determination prior to this about his status; he's been in this country for forty years. He's never had an arrest of any kind. He has no felony record. He doesn't have an arrest record at all. He's very active in the community. He's a peaceful man. And the fact that just because he was of Middle Eastern descent, was born there, that...that in itself becomes a profile target for him to be picked up. And the implications of that is just enormous, not only for the detainees themselves but for us as American citizens because obviously, any one of us could be next.

If, in fact, they were so disturbed and perturbed by these photos that I received and I didn't think anything about it. You know? Here I'm concerned about anti-displacement here in Harlem and the impact of gentrification. Had I inadvertently taken that to my office, could I have been charged with, you know, terrorist information or material? I mean, is it so far fetched when you hear about the detainees who have been picked up, their families haven't heard from them in a long time, they don't have the right to legal representation. Well, they do have the right for legal representation, but the government has a right to listen in on their conversations with their attorneys. And the recent arrest of Lynn Stewart? I mean, this...this...this is...this is pretty ominous and...I...I think it...And if one would use the word fear of a, you know, fascist, you know, approachment, it's ...it's...it's not so wild because it's here and it's here in a very real kind of way. And when it happens

to someone whom you know and whom you're close to, it strikes a cord and...and a closeness which means that you and anybody else could very well be in the same boat as Fred and may be not so lucky.

Q. Did you go to any of the politicians, local or national, or...or did you ever go to the New York Police Department and voice any of these sort of concerns or anything?

N.B. No. No, we didn't, but I think that we did have some kind of local support for Fred. Certainly, the Minister at ST. Mary's church was on board. The overwhelming response from a number of community based groups that we work with--called up after we sent the email...if...if there's anything that I can do just let...let us know. And a number of folks called in with the names of attorneys we worked with. One Asian group on the Lower East Side, the Committee Against Anti-Asian Violence, who were really very, very supportive and understanding themselves the whole issue about immigrant rights in the work that they are doing. So, I mean, just in terms of the political sensitive nature of the problem and...and its impact on building a movement of resistance in exposing what the government is doing, I...I think it...it certainly gave us a poster boy around those issues and that kind of strategy.

Q. Okay. Well, listen, thank you very much. That's great.