

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
AHMED ZAID SALEM ZUHAIR,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 08-CV-0864 (EGS)
)	
BARACK OBAMA, <i>et al.</i> ,)	
)	
Respondents.)	
_____)	

DECLARATION OF BRUCE E. VARGO

Pursuant to 28 U.S.C. § 1746, I, Bruce E. Vargo, hereby declare:

1. I am a Colonel in the United States Army with over 23 years of active duty service. I currently serve as the Commander of the Joint Detention Group (JDG) for the Joint Task Force – Guantanamo Bay Naval Base (“JTF-GTMO”). I am responsible for all aspects of detention operations for Camp Delta. I have served in this position since 30 June 2007. I have personal knowledge of the matters stated herein, as well as information made available to me through my official duties.
2. It is my responsibility, among others, to see that the detention mission at Guantanamo is performed in a humane manner that protects the safety and security of the detainees and the military personnel at JTF-GTMO. I am familiar with all of the areas of detention within JTF-GTMO, including the conditions and operational policies and procedures for each detention area.
3. Every detainee at JTF-GTMO is housed in an area that provides adequate shelter and ventilation. Every detainee at JTF-GTMO has full time access to potable drinking water, a toilet, and a sleeping area. Detainees receive three nutritionally sound meals prepared in compliance

with their religious, cultural, and where applicable, medical dietary requirements. Detainees in each detention area within JTF-GTMO receive regular opportunities for recreation and regular opportunities to maintain adequate personal hygiene. There are no solitary detention areas at JTF-GTMO. In all detention areas, detainees have regular contact with other detainees, guards, medical corpsmen who visit the cell block on a regular basis, and other personnel involved in the delivery of other services to detainees. Detainees typically are able to communicate with other detainees either face-to-face or by spoken word from their cells throughout the day.

4. There are multiple facilities of varying levels of security at JTF-GTMO in which detainees can be housed. Detainees are housed in accordance with their compliance with camp rules. Detainees who are highly compliant are typically housed in Camp 4. Detainees who are not classified as highly compliant are typically housed in other facilities.

5. Camp 4 is a medium-security, communal living facility in which detainees reside in open bays, with approximately ten detainees per bay. They are able to recreate in groups for up to 20 hours per day, including the opportunity to play games such as soccer, basketball, or even chess. Detainees in Camp 4 receive comfort items such as athletic footwear, additional uniforms, and access to movies and recorded television programs, in addition to the basic and comfort items issued in all other camps. Detainees in Camp 4 are constantly monitored by guard staff and regularly visited by medical personnel, routinely visited by the International Committee of the Red Cross (ICRC), and moved in and out of their cell blocks for various reasons, including daily recreation, medical appointments, intelligence interviews, legal visits, and ICRC visits.

6. Camp 4 also constitutes JTF-GTMO's most dangerous environment because of the detainees' ability to plan and act as a group. In 2005, a plot was uncovered to commandeer a food service truck and use the vehicle to injure or kill guard staff. On 18 May 2006, guard staff members

entering a housing block were attacked by the detainees inside. A guard was beaten with a baton and other instruments were used to assault and threaten other guards. Eventually, less than lethal weapons were employed to regain control of the cell block and rescue the guard staff.

Immediately after the guard staff was rescued, detainees in several other cell blocks began rioting and physically damaging the blocks. By the time the incident was finally over, several hundred thousand dollars worth of damage had been done to the camp which required extensive repairs. For this reason, detainees placed in Camp 4 are assessed for their compliance levels, propensity for indiscipline, and population suitability. Those who are considered to meet standards are permitted into Camp 4. Once in Camp 4, the JDG exercises a near zero tolerance for indiscipline policy; transferring detainees who fail to comply with camp rules into one of the other facilities under the control of the JDG. All detainees in Camp 4 are advised of this policy upon entry into the camp.

7. Unlike Camp 4, other camps in the JDG area of responsibility are comparable to and modeled after maximum security, single cell detention facilities in the United States. Camp 6 is the newest detention facility in Guantanamo, opening in December 2006. The cells are approximately 79 square feet in size and are lit by both artificial and natural light via skylights in the common area. No detainees are held in isolation; all detainees housed in these camps have multiple opportunities for daily interaction with other detainees and camp personnel. Detainees are permitted to speak to one another from their cells and participate in uninterrupted group prayer (led by a block detainee Imam of their choosing) five times per day. The cells have solid walls, but detainees talk with other detainees in adjoining cells and with detainees housed near them, as well as with guards, medical staff, library, and mail delivery personnel. Even when fully secured with feed tray slots closed, cells in Camp 6 allow for easy communication between

adjacent cells, and other cells within a group or tier of cells (referred to as “pods” or “blocks” in Camp 6). With a raised voice, an individual on one end of a pod or block can readily and effectively communicate with a detainee on the opposite end of the pod or block. This free communication is not discouraged. In fact, for the duration of the five separate twenty-minute prayer calls during each day, the feed tray slots of the prayer caller and prayer leader are opened to facilitate even easier communication between detainees in order to conduct prayer call.

8. Additionally, detainees receive a minimum of four hours communal outdoor recreation per day in communal style recreation areas. Detainees who are in a disciplinary status receive two hours of recreation per day in dual person recreation areas. Compliant detainees are also allowed up to three hours of communal pod time with other detainees each night. All recreation areas are formed with standard chain link fencing which facilitates easy communication between them. Moreover, compliant detainees are allowed up to four books and two magazines, and are allowed up to five personal photographs for display on cell walls. Detainees in all camps are permitted to send and receive regular mail, ICRC mail, and legal (privileged) mail (if they are represented by counsel). Detainees in all camps are viewed at a minimum every three minutes by guard staff, regularly visited by medical personnel, routinely visited by the ICRC, and transferred in and out of their cells for various reasons, including daily recreation, medical appointments, intelligence interviews, legal visits, and ICRC visits.

9. An important aspect of detention is the maintenance of discipline within the detainee population. This is for the safety and security of all personnel within the detention facility, including detainees. The JDG uses a system of discipline and positive behavior programs to reward detainee’s compliance with camp rules. Detainee violation of camp rules are reported to the appropriate officer or commander in the guard force chain of command who has authority to

take action based on the type of violation involved. This system provides for the fair and consistent delivery of consequences for negative behavior by detainees and rewards for positive behavior.

10. Both the camp in which a detainee is housed and the privileges which are afforded the detainee are determined by the detainee and his activities while in detention. As with any detention or correctional institution, custody and control measures at JTF-GTMO are in place to maintain good order and discipline and protect the welfare of JTF-GTMO personnel and detainees alike. Before a detainee is moved into Camp 4, he is formally vetted through a process that carefully considers his past behavior in detention (e.g., whether he is a habitual offender of camp regulations, is violent, or a self harm risk). A detainee's potential ability to assimilate into the current population of Camp 4 is also considered (e.g., whether he is disruptive around other detainees, an instigator of misconduct, or possesses psychological issues preventing his effective assimilation). Only after the detainee is successfully vetted is a move into Camp 4 ordered. Once in Camp 4, a detainee is subject to immediate removal for acts of indiscipline and can be removed for a failure to assimilate into the current population.

11. I have been informed that subsequent to Dr. Emily A. Keram's medical examination of ISN 669 she informed the Court that ISN 669 has agreed to end his hunger strike if he is transferred to Camp 4. I have also been informed that the Court has asked the government to seriously consider transferring ISN 669 to Camp 4 in order to facilitate an end to his hunger strike.

12. A review of ISN 669's record indicates a total number of eighty disciplinary infractions over the past four months, including those that require the use of a Forced Cell Extraction team. These incidents include refusing to walk to/from a feeding chair.

13. Based upon the totality of his conduct, his daily interactions with guard personnel and his pattern of misbehavior, I have determined that a transfer to Camp 4 is inappropriate at this time. ISN 669 knows when his actions are in violation of camp rules. In spite of this knowledge, ISN 669 continually seeks to manipulate the guard force into giving into his demands through his violation of those rules. At a minimum, I conduct a quarterly review of compliance records in order to consider a detainee's suitability for movement to Camp 4, and will revisit this decision as circumstances change.

14. I also have significant concerns that agreeing to transfer ISN 669 as a precondition for ending his strike will undermine security and operations at the detention facility. Such an agreement invites noncompliance and raises a very real risk that other detainees will begin hunger strikes, refuse to end on-going hunger strikes, or engage in noncompliant behavior as leverage in an attempt to barter their camp location or other conditions-of-detention. That risk is compounded if ending his hunger strike is the sole reason ISN 669 is transferred to Camp 4's medium-security, communal living environment, where he will be allowed more direct interaction with the general camp population. The potential impact on Guantanamo's security and the threats to the safety of Guantanamo's staff and camp population cannot be overstated. The circumstances of ISN 669's case, especially given that his current camp assignment is based upon his noncompliance with established detention rules, do not justify any exception.

15. Such an agreement also inappropriately injects a detainee's participation in a hunger strike directly into the vetting process for determining camp assignments. Thus, if a detainee is transferred for agreeing to end a hunger strike, then the converse also is true, i.e. a detainee's camp assignment must now be based in part upon whether he is engaged in a hunger strike. As with all conditions-of-detention determinations, camp assignments and location determinations

are within the province of the detention camp commander. To base detention decisions on criteria other than those explained above undermines my authority and ability to ensure safety and maintain order within the detention facility.

16. I am aware that the Court has asked for information as to why ISN 669 was moved to Camp 6 after Dr. Keram's medical examination.

17. On May 17, 2008, ISN 669 was moved to Camp 6 based upon a determination conducted by the detention camp commander, who determined that ISN 669 should be moved to Camp 6 based on petitioner's violations of the camp's rules and procedures.

18. On November 12, 2008, ISN 669 was moved to a specific pod in Camp 1. This move, and that of other detainees from Camp 6 to Camp 1 at or around the same time, was effected primarily for two reasons. First, Camp 6 was undergoing construction and several of the pods were rendered unavailable as a result. Second, hunger striking detainees assigned to Camp 6 were moved into the same block within Camp 1 with other hunger strikers in order to facilitate logistics in coordinating and providing manpower to conduct enteral feedings operations. ISN 669 was scheduled to be moved back to Camp 6 once construction was completed and/or necessary space became available.

19. Between January 19 and January 23, 2009, ISN 669 was escorted to Camp Echo in order to facilitate his meetings with Dr. Emily A. Keram, who was conducting ISN 669's medical examination. Petitioner was escorted to Camp Echo during Dr. Keram's visit because that facility is best equipped to conduct meetings with detainees. Detainee meeting area is a hut-like wooden structure, separated in half. with one-half for a meeting area and the other half being a cell area. Each structure includes a table and chairs to facilitate meetings.

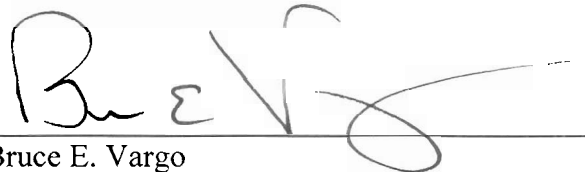
20. On January 25, ISN 669 was moved from Camp 1 back into Camp 6. ISN 669's transfer had nothing to do with Dr. Keram's visit or any issues regarding his *habeas* case. Rather, ISN 669 was transferred because space had become available again in Camp 6 and to logistically consolidate guard force and medical staff to facilitate enteral feeding operations. Although ISN 669 was the only detainee in his pod for a few days, over the next week other detainees were moved to the same location after careful and deliberate determinations were made as to specific placement of these detainees within Camp 6.

21. On February 9, 2009, ISN 669 was moved to the detention hospital. ISN 669 has remained under the care of the Joint Medical Group personnel since that time in order to monitor his weight and overall health. As of March 16, ISN 669 weighs 113.8 pounds and the medical staff has assessed ISN 669 to be in good condition.

22. ISN 669's hunger striking and enteral feeding is irrelevant to the Petitioner's location in the camps. Once Petitioner ceases his hunger striking and does not need to be enterally fed, he will be moved into the regular blocks of Camp 6. Once he complies with the rules and procedures of the camp and undergoes the necessary vetting process, Petitioner will be moved back to Camp 4.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 16 March 2009

A handwritten signature in black ink, appearing to read "B. E. Vargo", written over a horizontal line.

Bruce E. Vargo
Colonel, U.S. Army