

## AFFIDAVIT OF ATTORNEY H. CANDACE GORMAN

I, H. CANDACE GORMAN, STATE THE FOLLOWING UNDER OATH, BASED ON MY CONVERSATIONS WITH MR. AL-GHIZZAWI, MY INVESTIGATION INTO HIS CASE AND THE FACTUAL RETURN/CSRT RECORD.

### A. GENERAL BACKGROUND

1. That I am counsel for ABDUL HAMID AL-GHIZZAWI. Mr. Al-Ghizzawi is a prisoner at Guantánamo and has been held at Guantánamo since the spring of 2002. His ISN is 654. I have been Counsel for Mr. Al-Ghizzawi since November 2005. I am a solo practitioner in Chicago Illinois and I have taken on his representation, *pro bono*.
2. At the time I took on his representation Mr. Al-Ghizzawi had been trying to get word out of Guantánamo, through other counsel, that he desperately wanted legal representation. (A282-85)
3. On December 9, 2005 I filed a petition for *habeas corpus* for Mr. Al-Ghizzawi in the District Court for the District of Columbia challenging his detention at Guantánamo. (05-cv-2378) The petition was a "next-friend" petition based on declarations from other prisoners and habeas counsel who stated that Mr. Al-Ghizzawi wanted to be represented.

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4. I sent word to Mr. Al-Ghizzawi (through other counsel) that I filed the habeas petition and that I was representing him. Shortly thereafter I received a letter from him thanking me for taking on his representation.

#### **B. BACKGROUND ON MR. AL-GHIZZAWI**

5. Mr. Al-Ghizzawi is a citizen of Libya in his mid-forties who had been living in Afghanistan for approximately 10 years (since shortly after the Russians left the country) prior to his being abducted and turned over first to the Northern Alliance and then to the US forces in the late fall of 2001, in return for a bounty. Al-Ghizzawi is married to an Afghani woman and has a young daughter who was only a few months old at the time he was abducted. Although trained in Libya as a meteorologist Mr. Al-Ghizzawi and his wife ran a small shop in Jalalabad where they sold honey and spices and later expanded to include a bakery. In the fall of 2001 when the U.S. began bombing areas close to their city Al-Ghizzawi took his wife and baby and fled their home and shop in Jalalabad, seeking safety in a rural area of Afghanistan where Al-Ghizzawi's in-laws lived.
6. Not long after Al-Ghizzawi and his family arrived at his in-laws (approximately December of 2001) armed men came to the home and told the family to turn over "the Arab" (Al-Ghizzawi). Al-Ghizzawi cooperated in order to avoid any harm to his family. Al-Ghizzawi was sold to the US forces in return for a bounty under a program the U.S. Government

commenced which provided large sums of money (bounties) in return for “terrorist and murderers.” Al-Ghizzawi is neither a terrorist nor a murderer but was instead the victim of greed in an impoverished nation. He has been held at Guantánamo since the spring of 2002.

7. Since his detention at Guantánamo, Mr. Al-Ghizzawi’s health has steadily deteriorated. Mr. AL-Ghizzawi suffers from both hepatitis B and tuberculosis. He has not been treated for either life threatening condition while at Guantánamo despite his and my repeated requests for medical treatment.

### C. LEGAL PROCEEDINGS

8. As mentioned above Mr. Al-Ghizzawi’s habeas petition was filed on December 9, 2005. A general stay was in place at that time.
9. On January 30<sup>th</sup> 2006 I filed a Motion to have the Protective Order entered, a factual return from the government and Mr. Al-Ghizzawi’s medical records. The government challenged my standing to represent Mr. Al-Ghizzawi on the basis of the “next friend” petition (one of the many stall games by the government). The Court did not rule on that Motion until August 2006.
10. Sometime in January or February, 2006 I received direct authority to represent Mr. Al-Ghizzawi in a letter from him and I filed an amended habeas petition on February 24<sup>th</sup> 2006 changing the habeas petition from a “next friend” petition to a direct representation petition.

11. On February 27<sup>th</sup>, 2006 I filed an emergency motion to enter the protective order so that a visit to Mr. Al-Ghizzawi could take place. The underlying reason for the emergency was my concern about Mr. Al-Ghizzawi's health. The district court held the motion in abeyance because of the general stay on the Guantánamo litigation that was in place at the time.
12. On June 2<sup>nd</sup> 2006 I filed a renewed Emergency Motion to Enter the Protective Order after hearing new information from other counsel of my clients deteriorating health. I learned from that attorney that Mr. Al-Ghizzawi was possibly suffering from some form of liver disease.
13. The District Court granted the motion entering the Protective Order that same day.
14. I had my first visit with Mr. Al-Ghizzawi in July 2006. After visiting with Mr. Al-Ghizzawi at Guantánamo for three days I returned to Chicago and I filed an emergency motion for his medical records and treatment. After extensive briefing that motion was ultimately denied by the District Court on November 2, 2006.
15. I filed an appeal in the Circuit Court for the District of Columbia regarding the medical records and treatment on November 28, 2006 (06-5394). The government moved to dismiss the appeal and there has been no action taken on that appeal to this day.
16. On August 9<sup>th</sup> 2006 the district court judge ordered the government to provide Petitioner's counsel with records from his CSRT proceedings. The

government was ultimately given 60 days to provide those records and the factual return was filed with the court on October 6<sup>th</sup>, 2006.

17. The CSRT records demonstrated that Mr. Al-Ghizzawi was given **two** CSRT's. Under the first CSRT, the tribunal unanimously determined that Mr. Al-Ghizzawi was not an enemy combatant. Within weeks of that determination, a second tribunal was formed in Washington, DC without Petitioner's presence or knowledge and a new representative that had never met with Petitioner was assigned as his personal representative. On the basis of purportedly "new" and "classified" evidence, that second tribunal declared Mr. Al-Ghizzawi to be an enemy combatant.

#### **D. MEETINGS WITH MR. AL-GHIZZAWI AT GUANTANAMO**

18. On July 16<sup>th</sup>, 2006 I met with Mr. Al-Ghizzawi for the first time. Our meeting lasted the entire day, except for a break for lunch. We also met for the entire days on July 17<sup>th</sup> and July 18<sup>th</sup>.
19. We met at camp echo in a cell that was also used for interrogations. At our meeting, Mr. Al-Ghizzawi told me that his health started to deteriorate during his first year of detention in 2002 and has progressively worsened each year.
20. During our meeting, I discussed with Mr. Al-Ghizzawi his medical condition and symptoms. Mr. Al- Ghizzawi described his symptoms as: weight loss of between 10-15 kilos since his arrest; severe pain in his abdomen, left side and

back that travels down his legs; that his pain is constant both when walking or standing, and that he is unable to run; his stomach area is bloated with two black lines appearing horizontal across his stomach; digestive problems including vomiting and diarrhea. He was also very noticeably jaundiced. Mr. Al-Ghizzawi also described the increased intensity of the pain in the previous months as being so severe that he had been unable to get up from a lying down position.

21. Mr. Al-Ghizzawi stated when he first arrived at Guantánamo, the drinking water provided to the prisoners was yellow in color and had small particles in it. He stated that the water tasted and smelled bad and that as a consequence he did not drink very much water. Sometime in late 2004, after lawyers were allowed at the base, the prisoners were provided with bottled water that appeared clean and tasted fresh.
22. I observed Mr. Al-Ghizzawi over the three days of meetings. As I mentioned above, Mr. Al-Ghizzawi was very jaundiced. During our meetings he was constantly rubbing his back, his leg and his abdomen. In my opinion, based on my observation during those meetings, Mr. Al-Ghizzawi was in constant pain.
23. I brought in several different items of food for Mr. Al-Ghizzawi and although he was very gracious for the gesture he expressed his inability to eat the various foods. Mr. Al-Ghizzawi stated that his health deteriorated

even more if he ate off the scheduled mealtimes. He was able to drink the apple juice I provided and was appreciative of receiving that drink.

24. In 2005, some of the prisoners at Guantánamo engaged in a hunger strike. According to Mr. Al-Ghizzawi, he did not join the strike because of his frail health. Nevertheless, the guards put him on the list as being part of the strike and food was withheld from him for 10 days. He stated that every day he would ask the guards to correct the records and bring him food, but it took him 10 days to get the matter cleared up. He stated that the man in the cell next to him was on the hunger strike, but they brought food to him that he wouldn't eat. Mr. Al-Ghizzawi stated that he tried to reach for the other man's tray but it was out of reach. He said his health worsened after those 10 days without food.
25. I spoke to Mr. Al-Ghizzawi about his medical history in an effort to see if his history could point to his current health problems. He stated that prior to getting married he had a blood test that showed positive for hepatitis B. A second blood test was conducted and the result was negative for hepatitis B. He never had any symptoms of hepatitis B prior to being detained at Guantánamo and he stated that he was in good health at the time of his capture.
26. I also spoke to Mr. Al-Ghizzawi about the medical treatment that he received at Guantánamo. He stated that he had been to the medical clinic on several occasions after he complained about his health problems but he was not

treated for those problems nor was he told the results of any tests that were run on him. Mr. Al-Ghizzawi also stated that the guards that would bring him to the clinic often sat and read his medical file and that they would toss the file around for others to read while he sat there.

27. After our meeting in July, I received a letter from Mr. Al-Ghizzawi who described an episode of such severe pain that he passed-out.
28. On September 19 and 20, 2006 I once again visited Mr. Al-Ghizzawi at Guantánamo.
29. During my visits with Mr. Al-Ghizzawi in September, I showed Mr. Al-Ghizzawi Respondent's Opposition to Petitioner's Emergency Motion for Access to Medical Records and Emergency Medical Treatment, along with the declarations attached thereto. The response showed that Mr. Al-Ghizzawi had Hepatitis B and Tuberculosis. Mr. Al-Ghizzawi was unaware that he suffered from those conditions until I told him during that visit and showed him the affidavit from the Guantánamo medical facility. I also went over with Mr. Al-Ghizzawi a list of questions regarding symptoms that Dr. Jensen, a physician and liver specialist that I spoke with had suggested I ask. I posed most of those questions in a letter to Mr. Al-Ghizzawi which was sent through the legal mail on August 21, 2006 but Mr. Al-Ghizzawi never received that letter.
30. Mr. Al-Ghizzawi stated the following in response to my questions about his symptoms: that his skin was very itchy especially in the area of his legs and

chest; that he was forced to wear a larger sized pants because of his bloating stomach and the pain associated with it; that the pain was most severe on the right side right above his ribcage; that his urine was sometimes white in color; that he had difficulty sleeping and wakes up four to five times in the night; that he is always exhausted and sometimes finds it difficult to walk even a short distance; that he is often disoriented and confused; he has difficulty concentrating; that he has been vomiting more often, especially after eating; that his vision is worsening; he feels depressed and anxious because no one will tell him what is wrong with him so he fears it must be because he is dying and they don't want to tell him. He was terribly afraid that whatever is killing him may have infected his wife and child and that perhaps they too are dying.

31. On the second day of our visit Mr. Al-Ghizzawi was overcome with fatigue and very disoriented. He told me that at 2:30 AM he was taken from the temporary cell at Camp Echo where we were meeting and brought to his usual cell block. He explained to the soldiers that he was meeting with me again in the morning and he was not supposed to go back to his cell but they did not listen. At 5:00 am the soldiers came again and brought him back to the temporary cell where we were meeting. They did not give him breakfast and he was very hungry. I asked one of the guards to bring him something to eat and they later brought him some cereal and milk while we were meeting.

32. During the meetings on those days (September 19, 20), we discussed the situation with the legal mail that he had briefly described to me in a postcard. He stated that the normal procedure was that the guards allowed prisoners to have pen and paper to write letters only on Wednesdays and only for half an hour. According to Mr. Al-Ghizzawi this had been the procedure since at least early spring, 2006. Mr. Al-Ghizzawi further stated that when a prisoner was receiving discipline it was up to the guards whether, or when, they could write to their counsel.
33. Also during those meetings, I asked Mr. Al-Ghizzawi about letters I sent to him. I showed him each letter that I sent him since my last visit in July to see if he received the letter. Mr. Al-Ghizzawi stated that he did not receive two of my letters dated August 17 and August 21, 2006. I gave him copies of those letters at that time. Those letters were sent as legal mail through the procedures set up in the protective order.
34. I carefully observed Mr. Al-Ghizzawi during our two day meeting in September and it is my opinion that his health had deteriorated in the two months since my last visit. Mr. Al-Ghizzawi was still obviously jaundiced and in visible pain (constantly rubbing his back and chest). In addition, Mr. Al-Ghizzawi had a difficult time focusing his eyes, at times appeared listless, and had a difficult time concentrating on the topics we were discussing. He also showed me a lump near his rib cage on his right side that was causing him great discomfort.

35. My next visit with Mr. Al-Ghizzawi was November 17-18 2006.
36. During my meeting with Al-Ghizzawi on November 17, 2006, Mr. Al-Ghizzawi informed me that he continued to suffer from a pain near his ribcage which sometimes moved toward the center of his chest. He also reported that he suffered from depression and continued to experience dryness and itchiness in his skin. He believed his hearing and eyesight were deteriorating. He experienced shooting pains in his legs. I observed that he constantly rubbed his legs and abdomen and appeared to be in considerable pain. He was still very jaundiced.

#### **CAMP SIX**

37. On December 7<sup>th</sup> 2006 Mr. Al-Ghizzawi was moved to the new Camp Six. He sent me a letter telling me this sad news in late December, 2006 and I received the letter in mid January, 2007.
38. Camp Six was Halliburton's latest project at Guantánamo Bay. According to the military, this supermax facility was designed to hold the general population from Guantánamo. Men are held in the Camp 6 conditions of severe isolation despite their status or risk level.
39. At Camp 6, unlike the supermax facilities in the U.S., the men are only allowed one book per week, they are given no newspapers, they are not allowed to watch television, they cannot listen to a radio, and they cannot take classes (they are forbidden from learning English). Mr. Al-Ghizzawi is

compelled to complain to get so much as clean clothes. He is denied privacy when he uses the toilet; even female guards can see him. Like the rest of Guantánamo the men are not allowed any family visits or phone calls, and most of these men are not allowed to touch another human being...not even thru the mesh link fence of the outdoor "recreation" cages.

40. The cells in camp 6 are constructed entirely of metal. As the camp is air conditioned everything in the cell is cold. The men are not provided blankets but instead are given plastic sheets that are cold and smelly. The cells admit no natural light or air and the men cannot converse with anyone while in their cell unless they kneel on the floor and attempt to shout greetings through the tiny gap where the food is pushed in. Mr. Al-Ghizzawi passes his days in tedium and loneliness.
41. I visited Mr. Al-Ghizzawi on February 12-16, 2007 at camp 6.
42. I was escorted into the new, headache white, facility and brought to the tiny room where my client was waiting for me. The windowless six-by-six closet-size room had two chairs and a table. Mr. Al-Ghizzawi was stooping low to the floor and huddled against the wall when I entered. His arms were wrapped around his body as he tried to warm himself from the chill he has had for over two months, and his feet were shackled to the floor. He was shivering, his teeth were clenched and he wouldn't look at me.

43. When I arrived at Camp 6 I was first told that Mr. Al-Ghizzawi did not want to see me. My escort went and spoke to Mr. Al-Ghizzawi and brought him a note from me, he then agreed to meet with me for a short time.
44. Mr. Al-Ghizzawi told me that I was his guest so he did not want to insult me by not visiting with me, but that he was feeling very ill and he was ashamed to have me see him in orange. Mr. Al-Ghizzawi was in the orange jumpsuit which is worn by prisoners who are being punished. Mr. Al-Ghizzawi explained to me that when he went to take a shower two days earlier he had toilet paper in his pocket. It is forbidden for the prisoners to have anything in their pocket when they go for showers. Mr. Al-Ghizzawi also told me that he was ordered out of the shower almost as soon as he had entered the shower and that he did not exit the shower immediately. Those two infractions landed Mr. Al-Ghizzawi in the orange jumpsuit for two days. Mr. Al-Ghizzawi told me that it made him feel like a criminal and he did not want me to see him in that condition. Being on punishment also meant that Mr. Al-Ghizzawi lost all of his "privileges," which meant that he could not wear the thermal shirt under his jumpsuit that the military gave the men after so many lawyers complained about the cold conditions that their clients were subjected to at Camp 6, so Mr. Al-Ghizzawi was even colder than usual. Mr. Al-Ghizzawi reported that not only was he very cold but that his food, drink, and the temperature of his cell were kept cold. He further explained that they are not given blankets and his only cover is a plastic sheet which is also cold.

45. Mr. Al-Ghizzawi told me (and it was clear to me looking at him) that his health has worsened since his being moved to Camp 6 and that he has asked to see a doctor since mid December but had not seen one yet.
46. Mr. Al-Ghizzawi reported that he now vomited several times each day and that his other symptoms included frequent headaches, soar throat, itchy skin, piercing back pain, pain in his abdomen and other aches, frequent nosebleeds and pains in his gums. He reported that the fluorescent lights were left 24 hours a day in Camp 6 and, although they were somewhat dimmed at night, the lighting made sleep very difficult. I observed that he appeared very mentally distraught, would not look at me and remained huddled against the wall.
47. Mr. Al-Ghizzawi explained that the guards would often offer him outdoor recreation time at eight or nine o'clock in the evening, and sometimes as late as midnight or one o'clock in the morning. However, Al-Ghizzawi often refuses to go outside if the sun is not out. He also reported that during his first month in Camp 6, he was given no recreation time at all.
48. I observed that the total isolation of camp 6 was having a profound effect on Mr. Al-Ghizzawi's mental as well as physical health. Whereas in the past we would often sit together and converse about the nature of the world and various philosophies he was now unresponsive and only answered questions that were asked. We cut our meeting short that first day.

49. In our second day of meeting in February of 2007 Mr. Al-Ghizzawi was a little more interactive as we discussed the legal case and documents that I had prepared. He shook from the cold the entire meeting and his teeth were clenched.
50. My next meeting with Mr. Al-Ghizzawi occurred on May 8-9, 2007, in a different, but similar, shabby little room at Camp 6. Our discussion was often interrupted from loud outbursts outside our meeting room both by military personnel and detainees.
51. During the May meetings Mr. Al-Ghizzawi reported that he was very weak and he continued to suffer from persistent skin irritation. He reported that he could only drink small quantities of water otherwise his stomach would be upset and he would vomit. He reported that his eyesight was continuing to deteriorate. I observed that he was blinking constantly and that his eyes appeared bloodshot and irritated. Mr. Al-Ghizzawi also said that the skin on his back was somehow inflamed and covered in red bumps and scratches. He continues to suffer from pains in his leg and his abdomen.
52. Mr. Al-Ghizzawi reported that he was now being offered some daytime "recreation" time. But there was no shade and no recreation. Recreation time involved standing in a caged pen in the sweltering Cuban heat.
53. My last visit with Al-Ghizzawi was on July 10, 2007. Although Mr. Al-Ghizzawi is still kept in Camp 6 our meeting took place at camp Iguana (one of the other interrogation camps).

54. Mr. Al-Ghizzawi was supposed to bring with him to our meeting the affidavit that we were preparing together regarding his circumstances. On the day of our meeting when the guards came to his cell they told him he was not going to a meeting with his attorney and that he could not bring any papers with him. Therefore Mr. Al-Ghizzawi came to the meeting without any of his legal papers.
55. During this visit the deterioration of Mr. Al-Ghizzawi's health was alarming. His face was drawn and his skin looked both ashen and jaundiced. He had a difficult time focusing on anything we were discussing. He was in constant visible pain. He reported many of the same symptoms as the past but all of the symptoms were worse. He was very weak and tired. Mr. Al-Ghizzawi told me he could not walk more than a few feet before being overcome with fatigue.
56. Perhaps most distressing to me was my observation that Mr. Al-Ghizzawi's mental health had noticeably deteriorated since my last visit. He confessed that in his total isolation that he had begun talking to himself. He recognized that this was a sign of a fraying mental state and he was very distraught over his condition. He seemed to have great difficulty maintaining focus and concentrating on the conversation. He also seemed to have trouble understanding me, even though he is proficient in English and communication has never been a problem before. He was consumed with

fears and concerns about the well-being of his wife and daughter and appeared near tears on several occasions when we spoke of his family.

57. On each of my visits we have met together over two days. I spend a great deal of time discussing legal issues and other aspects of his case and I know that Mr. Al-Ghizzawi always looks forward to these visits. On this last visit Mr. Al-Ghizzawi was unable to meet with me on the second day because of his poor health. We were therefore not able to go over the affidavit that we were preparing together or other legal documents that I had sent him.

#### **(LACK OF) MEDICAL CARE**

58. The Respondents' opposition to efforts to have Al-Ghizzawi properly tested and treated has largely relied on the declarations of Captain Ronald Sollock, Commander of the Guantánamo Bay Navy Hospital, and Joint-Task Force Surgeon who stated in an affidavit that Mr. Al-Ghizzawi does not want to be treated for his life threatening illness.
59. Capt. Sollock admitted in the affidavit that Mr. Al-Ghizzawi has a history of hepatitis B since he was first tested upon entering the base. Although Guantánamo's medical staff is supposed to involve the prisoners in their healthcare treatment, this diagnosis had never been confirmed to either me or my client until it appeared in Sollock's declaration in September 2006.
60. While Capt. Sollock described the official healthcare protocol at Guantánamo in glowing terms, he did not indicate that he himself had had any personal

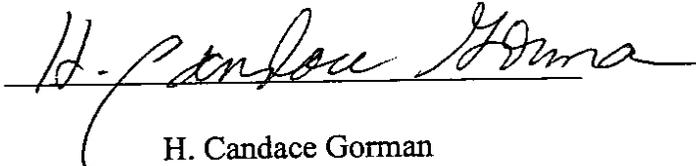
experience with Al-Ghizzawi or that he personally supervised the treatment of my client or for that matter that he had even read the complete file. In fact Capt. Sollock asserted that Al-Ghizzawi had not complained of vomiting or diarrhea and then had to file a supplement to his affidavit conceding that his statement was inaccurate and that, in fact, Al-Ghizzawi had complained of nausea and vomiting.

61. Despite Capt. Sollock's statement that Mr. Al-Ghizzawi does not want to be treated for his life threatening diseases nothing is further from the truth. Mr. Al-Ghizzawi only knows about his medical condition because I brought the Captains affidavit with me to a visit. After reading the affidavit he looked at me in disbelief and asked why they had not told him and why they were not treating him. I had no answer. I have no answer still.
62. In one of our meetings Mr. Al-Ghizzawi described for me the very brutal treatment that he received after being turned over by the afghani warlords to the Northern Alliance for the bounty. While in the hands of the Northern Alliance he heard that the Americans were coming. He had great hope that the Americans would take him from the Northern Alliance and when the Americans arrived he spoke to them in his broken English hoping that would be a positive sign and the Americans would take him away from the brutal Northern Alliance. He thought he would be safe with the Americans. He thought the Americans would treat him with respect. He thought that he would have rights with the Americans that he did not have with the

Northern Alliance. He said that they Americans were even more brutal than the Northern Alliance and he asked me what happened to America?

FURTHER AFFIANT SAYETH NAUGHT.

Dated July 25, 2007:

  
H. Candace Gorman