

UNITED STATES OF AMERICA

v.

SALIM AHMED HAMDAN

Defense Motion
for Relief from Punitive Conditions of
Confinement and for Confinement Credit, or,
Alternatively, Abatement

Declaration of Andrea J. Prasow

1 February 2008

I, Andrea J. Prasow, declare pursuant to 28 U.S.C. § 1756, that the following information is true and correct:

1. I am Assistant Detailed Defense Counsel in the case of *United States v. Hamdan*.

I have been detailed to Mr. Hamdan's case since April 2007.

2. I have met with Mr. Hamdan for approximately two to three days per month since May 2007.

3. Pursuant to court order, Mr. Hamdan was previously detained in Camp 4 – a medium-security, communal-living style facility. Following dismissal of his *habeas* case by District Judge Robertson in December 2006, Mr. Hamdan was moved to solitary confinement in Camp 6. He has been in solitary confinement every since.

4. During the course of our meetings, I have had the opportunity to personally observe Mr. Hamdan's demeanor. Over the last several months, I have observed a significant change in Mr. Hamdan's personality.

5. Mr. Hamdan has grown increasingly agitated. He has described tremendous suffering due to his ongoing solitary confinement. He finds it difficult to concentrate, his eyesight has deteriorated, and he experiences constant harassment from the guards. His level of desperation grew to the point where he requested to meet with interrogators in the hopes that they might improve his conditions of confinement.

6. Mr. Hamdan has a history of extreme emotional distress when placed in solitary confinement. His difficulty concentrating on his case due to the effects of solitary confinement was previously identified by Dr. Emily A. Keram, a forensic psychiatrist retained by the Defense to assist in the preparation of Mr. Hamdan's case. During a period when Mr. Hamdan was housed in general population, he would be transported to isolation in Camp Echo in advance of attorney visits. Dr. Keram noted that his ability to participate was so seriously hampered by even one night in solitary confinement that the Defense requested that Mr. Hamdan be returned to general population during the evening between attorney interviews. A true and correct copy of the Memorandum from LCDR Charles Swift to Commander, JTF, Guantanamo, dated May 30, 2005, attaching memoranda from Dr. Keram to LCDR Swift dated May 16 and 17, 2005, is attached as Exhibit 1 to this Declaration.

7. Due to Mr. Hamdan's deteriorating mental condition, and in light of the Military Judge's Order of June 4, 2007 that Mr. Hamdan might be a prisoner-of-war, I requested that he be moved to the less restrictive, non-solitary confinement facility in Camp 4. A true and correct copy of that request is attached as Exhibit 2 to this Declaration.

8. Having failed to receive a response to this request, on October 9, 2007, I reiterated my request in writing. A true and correct copy of that request is attached as Exhibit 3 to this Declaration. During October 2007, I spoke to CAPT McCarthy, Staff Judge Advocate ("SJA"), in person and asked to be informed of the status of the request that Mr. Hamdan be moved to Camp 4. CAPT McCarthy informed me that he had forwarded the request through appropriate channels. I never received any further response.

9. After meeting with Mr. Hamdan in December 2007, I grew so concerned about his mental state that I submitted an additional request to the SJA that Mr. Hamdan be moved from solitary confinement to Camp 4, and that he be allowed a telephone call with his wife. I am aware that Omar Khadr, who is being prosecuted by military commission, and Ibrahim al Qosi, who was charged under a previous commission process, are or were both housed in Camp 4. I am also aware that Mr. Khadr has received at least one telephone call from his family. A true and correct copy of that request, dated December 17, 2007, is attached as Exhibit 4 to this Declaration.

10. On December 19, 2007, I received a response from the SJA's office. I was informed that Mr. Hamdan had been moved to Camp 1. A true and correct copy of that response is attached as Exhibit 5 to this Declaration.

11. On January 24, 2008, I arrived at my scheduled visit with Mr. Hamdan and discovered that he had been moved to Camp 5. Mr. Hamdan informed me that he had been in Camp 1 until December 24, 2007, after which time he was moved to Camp 5 – another solitary confinement facility.

12. Mr. Hamdan informed me that during the entire month he had been in Camp 5 he had only been allowed two exercise periods.

13. Mr. Hamdan informed me that during the month he had been in Camp 5 he had written three separate letters to his attorneys but that the guards had refused to collect them. During our meeting, Mr. Hamdan provided me with those letters.

14. Over the last several months, Mr. Hamdan has grown increasingly frustrated with his legal team. Mr. Hamdan has told me several times that he cannot focus on preparing for his trial because his conditions of confinement are so strenuous and all-consuming.

Mr. Hamdan perceives his isolation in solitary confinement while other detainees are in the less-restrictive setting of Camp 4 as a failure of his defense team.

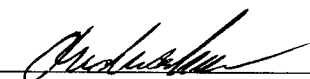
15. Mr. Hamdan's desperation was so severe that he requested to meet with interrogators believing they were the only people who could improve his conditions of confinement.

16. At the conclusion of our last meeting on January 25, 2008, Mr. Hamdan expressed a desire to meet with the Chief Defense Counsel as soon as possible in order to discuss his options regarding choice of counsel.

17. It is apparent to me even as a lay person that Mr. Hamdan's mental state is precarious. During the course of our meetings, he has vacillated between being friendly and cooperative to sudden outbursts of anger. When I have attempted to discuss details of his case, Mr. Hamdan's mind appears to wander. He is frequently unable to engage in any real discussion of his case, instead focusing on his conditions of confinement and our failure to improve them.

18. I do not believe that Mr. Hamdan will be able to materially assist in his own defense if his conditions do not improve in the near future.

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

By: 

Date: 1/2/08