

SECRET//NOFORN

March 31, 2005 revised April 21, 2005

CLASSIFIED Annual Review Board ("ARB" or "Board") Submission on behalf of Belkacem Bensayah by his Attorneys Stephen H. Oleskey, Robert C. Kirsch, Douglas Curtis and Melissa Hoffer Wilmer Cutler Pickering Hale and Dorr LLP Boston 02109

(U) This Classified ARB Submission ("Classified Submission") is made by the law firm of Wilmer Cutler Pickering Hale and Dorr LLP on behalf of its client, Belkacem Bensayah.¹ It replaces our February 1, 2005, submission to the Board, which is hereby withdrawn. The procedures set forth in the Administrative Review Board Process ("ARB Process") require this Board to undertake "careful consideration" of a number of factors, including the likelihood that Mr. Bensayah "will take up arms against the United States or its allies," and Mr. Bensayah's "intelligence value." This Classified Submission will provide the Board with information concerning those factors to assist its determination that Mr. Bensayah does not pose a threat to the United States or its allies, and that there are no other factors supporting the need for Mr. Bensayah's continued detention.² Because the CSRT, as well as the underlying allegations, focus largely on the asserted relationships among Mr. Bensayah and the five other Bosnian-Algerians taken into custody by U.S. forces in Bosnia in January 2002, we respectfully request that this Board consider the Classified Submissions for all six of our clients when evaluating each of their cases. For the reasons explained below, this Board should find that Mr. Bensayah does not pose a threat to the United States or its allies, and has no intelligence value.

¹(U) WCPHD provides this submission and the accompanying materials without waiving any claims submitted on behalf of Mr. Bensayah in the *habeas corpus* action *Boumediene et al. v. Bush et al.*, currently pending in the United States Court of Appeals for the District of Columbia. WCPHD has contended in those proceedings that Mr. Boudella was seized unlawfully by U.S. military authorities from Bosnia Herzegovina and is being detained unlawfully at Guantanamo.

²(U) This Classified Submission necessarily focuses on the classified contents of the record relied upon by the CSRT, which is the only classified information available at this time to counsel for Mr. Bensayah. The CSRT record, however, includes only a small portion of the written record reflecting information and statements provided by Mr. Bensayah during his internment at Guantanamo. For example, we are aware that every detainee subject to the Department of Defense's order establishing the CSRTs was determined to be an enemy combatant through "multiple levels of review." See Order Establishing Combatant Status Review Tribunal, § (a) (July 7, 2004).

(U) The Board should affirmatively enquire whether additional information exists that bears on the facts that Mr. Bensayah does *not* pose a risk to the United States or its interests and has no intelligence value. Further, this Board is mandated by its own procedures to assess the reliability of any piece of information presented in the ARB proceeding, including whether the information is "specific as to the matters described," "corroborated by other information," and was obtained by a source that "appears credible." *Administrative Review Board Process*, ARB proceedings at (e)(3). The ARB procedures specifically recognize that information that is "vague, unsupported, or not established through reliable sources" is considered less reliable.

(U) To the extent the Board relies on any such additional information, we request that it also be made available for review by us as Mr. Bensayah's security-cleared counsel. See *In Re Guantanamo Detainee Cases* Memorandum Opinion Denying in Part and Granting in Part Respondents' Motion to Dismiss or for Judgment as a Matter of Law at 45-53 (Jan. 31, 2005) (Classified) (finding CSRT process unconstitutional on the ground that, *inter alia*, counsel must have access to all information relied upon for purposes of reaching "enemy combatant" determination), attached to Joint Appendix at Exhibit N.

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I. DISCUSSION OF ARB CRITERIA

A. (u) Mr. Belkacem's Personal Information, Work History, and Family Status

(S//NF) A review of Mr. Bensayah's full CSRT file consistently depicts a simple, uneducated man who lived modestly since leaving his native Algeria approximately 15 years ago. He dealt with people in many contexts, but made few close relationships, as is evident in the CSRT file. He comes from a large family, most members of which still live in Algeria, and his most important relationship during the past several years has been and remains that with his wife and daughters in Bosnia. Since marrying, he has settled in Bosnia. His financial ventures and needs remain modest and he has demonstrated the traits of a law abiding, respectable husband, father and citizen. The record does not describe instances of anti-American rhetoric or conduct. With the exception of (b)(1)

(b)(1)

(b)(1) the record does not suggest Mr. Bensayah planned to assist other people with positions adverse to the U.S.

(S//NF) There is no statement or allegation among the many documents selected to be included in the CSRT file relating to Mr. Bensayah that shows him as inclined toward violence, or ever acting or speaking in a way that was deemed anti-American by any intelligence officer whose work is present in that file. Indeed, read in its entirety, even the CSRT material, which was assembled to support the proceeding conducted to confirm his status as an "enemy combatant," shows, at worst, that one or two intelligence officers (who, it appears, did not meet or personally evaluate Mr. Bensayah) filed statements, without independent support, suggesting links to an Algerian extremist group³ or to al Qaeda that Mr. Bensayah, and the other Bosnian detainees purportedly "linked" to him (principally by coincidence of their Algerian birth) consistently denied throughout three years of questioning by both Bosnian and U.S. authorities.

(u) Mr. Bensayah is the least educated and least articulate of the six Algerian-born Bosnians, and the one who has suffered the most physically and psychologically as a result of his internment at Guantanamo. Unlike the other five men he is alleged to be in association with, he was only sporadically employed and lived in very humble surroundings, often surviving on the charity of other Muslims or his Bosnian wife's family. Although the CSRT file includes unsupported statements about funds he

³ (u) Our discussions with Algerian Embassy personnel and others indicate that the Armed Islamic Algerian Group, known as the GIA, was active in the early to mid 1990s. Mr. Bensayah left Algeria in 1990. His travels after leaving are well documented in the materials offered to support the CSRT record.

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controlled, he was living with his wife's parents at the time of his arrest, after losing his apartment, had virtually nothing in his personal bank account, and did not own a cell phone. His acquaintance with Mr. Boumediene was limited to the context of asking for charity assistance from Mr. Boumediene, an aid worker of common descent, for his wife and children.

~~(b)(1)~~ (b)(1)
(b)(1)
(b)(1) Counsel respectfully submit that Mr. Lahmar had nothing personal to gain by such a statement, (b)(1)
(b)(1)

1. (u) *Mr. Bensayah's Acquaintances Do Not Demonstrate Dangerousness*

(u) The Board should take note of the consistency of the answers provided by Mr. Bensayah (and the five other Bosnians) during the 90 days he was detained in Bosnia, and during his three plus years in Guantanamo. There is no dispute that each of the six men was living at home with his family when detained, and there is not even a suggestion in the combined files of all six of any effort or opportunity to coordinate alibis. Under the circumstances, the consistency of their independently and repeatedly collected statements about their histories and relationships [including the lack of any relationship among some of them] indicates they are telling the truth, and consequently, should raise material questions for this Board (which has the ability, and perhaps the duty to review their records as a collection) about whether any of them poses a threat to the interests of the U.S. or its allies.

(b)(1)

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(b)(1)

(S//NF) Mr. Bensayah should not be assessed as a threat to the U.S. or as having any intelligence value based (b)(1)

(b)(1)

(b)(1) Mr. Lahmar had the misfortune to have a former brother-in-law who hoped to benefit from implicating Mr. Lahmar to U.S. and Bosnian authorities. See discussion below. Mr. Boumediene's alleged infraction was giving food and paying to retain a lawyer for Mr. Bensayah, a poor man with a wife and children. Neither connection suggests any risk to the U.S.; both are easily explicable in the context of an expatriate Muslim community.

B. (u) Circumstances of Mr. Bensayah's Apprehension

(FOUO) Detainees Nechla No. 10003, Bensayah No. 10001, Ait Idir No. 10004, Lahmar No. 10002, Boudella No. 10006, and Boumediene No. 10005 all were born in Algeria and had been living in Bosnia for six to twelve years by 2001 when they were arrested by Bosnian authorities (b)(1)

(b)(1)

(b)(1)

(b)(2)

(b)(7)(A)

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(b)(1)

(u) The six Algerian men were ordered released by Bosnia's highest court in January 2002 on the ground that there was insufficient evidence to detain them.⁶ Immediately after the order was issued, and before their release could occur, the six were turned over to United States forces stationed in Bosnia and then flown to Guantanamo where they are entering their fourth year as prisoners. (b)(1)

(b)(1)

(u) In June 2004, the Chief Federal Prosecutor for Bosnia and Herzegovina closed his almost three-year investigation into the alleged terrorism activities involving Mr. Bensayah and the other five men. See *Letter from Bosnian Chief Federal Prosecutor*, attached to Joint App. at Ex. B(d).

(u) 1. *Newly Disclosed Evidence Sheds Light on Source of U.S. Suspicions*

(u) Mr. Bensayah's alleged link to terrorist organizations such as the GIA and terrorist activities such as a "suspected" embassy attack presumed from his acquaintance with Mr. Lahmar have been undermined by recent information.

(b)(1)

⁶ See *Summary of Action of the Government of Bosnia and Herzegovina Concerning the Return of the Six Detainees Taken from Bosnia and Herzegovina to the U.S. Prison at Guantanamo Bay, Cuba*, attached to Joint App. at Ex. B, and; *Supreme Court of the Federation of Bosnia and Herzegovina Decision* (January 17, 2002), attached to Joint App. at Ex. B(b).

⁷ See also Lahmar Classified ARB Submission for a full discussion of this evidentiary development.

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(SINF) (b)(1)

[Redacted]

Id. (emphasis added).

(SINF) Colonel (b)(6) failed to send this essential information, which arrived after the conclusion of Mr. Lahmar's CSRT proceedings, to the President of the Lahmar Tribunal.⁸ Colonel (b)(6) also took no action to send it to the members of the Bensayah Tribunal or to any members of the Tribunals for Messrs. Boudella, Boumediene, Ait Idir or Nechla, even though all their CSRT files, (b)(1)

(b)(1)

(b)(1)

(SINF) See October 19 and 20, 2004, email exchange in Lahmar CSRT Classified File, attached to Joint App. at Ex. E(y). Those documents show that when the two members of the Lahmar Tribunal stated that this information would not change their conclusions, it was never forwarded to Col. (b)(6) the Tribunal President and its ranking officer.

(b)(1)

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(b)(1)

(b)(1)

(b)(1)

Through Hamad's attorney in Bosnia, counsel recently obtained a copy of a long, rambling handwritten letter that Hamad sent from prison on July 26, 2004 to U.S. General (b)(6), then SFOR Commander in Bosnia.¹⁰ A copy of this letter and an English translation of the letter are attached to the Joint Appendix at Exhibit M.

(u) The letter by Hamad apparently responds to earlier comments or communications to Hamad, which he attributes to General (b)(6) or his aides. The letter begins with a remarkable admission: "I know that you do not trust to what I have publicly stated about Al Qaeda and its engagement in Federation of BiH...I spoke about that with investigators from the FBI on several occasions and we are still in touch." Hamad complains in the letter that General (b)(6) "has no reason to suspect the honesty of my allegations and accusations," and that General (b)(6) is "not right when you think that I only lie, that I do not speak truth and that I only try to get myself out of prison by this."

(u) It is plain from the text of Hamad's letter that (1) he is incensed that General (b)(6) and SFOR no longer believe his "detailed data" concerning Muslim mujahedin activities in Bosnia from 1992 onward; (2) Hamad has been an informant for the FBI and "domestic and international investigators" in Bosnia for years in a long standing but unsuccessful effort to buy his way out of prison in exchange for all the information he can supply; and (3) he is deeply upset that "the honesty of my allegations that Al Qaeda was connected with many Islamic humanitarian organizations which were engaged in Bosnia during and after the war, under the lead of the High Saudi Committee for Relief" is now suspect. Obviously, General (b)(6) and SFOR did not find Hamad to be a credible source.

~~(CONF)~~ This letter goes well beyond the information belatedly supplied by email to two members of Mr. Lahmar's CSRT on October 20, 2004. (b)(1)

(b)(1)

¹⁰ (u) The letter is addressed to "Respected Mr. Commander of SFOR General [REDACTED]" Major General (b)(6) was named SFOR commander in Bosnia on October 2, 2003 and served in that capacity until October 5, 2004, when he was replaced by Brigadier General (b)(6). SFOR itself was replaced on December 2, 2004 by UFOR.

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(b)(1)

C. (u) Statements Made by Mr. Bensayah and Cooperation Wile in Detention.

(b)(1),(b)(7)(A)

(b)(1)

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(b)(1)

(u) The fact that Mr. Bensayah voluntarily confessed to having used a false name and documents in the past does not change the fact that he took those actions in the early 1990s. However, it does suggest that he had, by then, decided to settle in Bosnia and to raise his new family there peacefully as a member of Bosnian society. These are among the facts this Board should consider in evaluating whether Mr. Bensayah poses a threat to the United States.

~~(S)~~ Nor was his effort to correct his name the only step Mr. Bensayah took that was inconsistent with the theory that he intended to harm the U.S. or its allies. (b)(1)

(b)(1)

~~(S)~~ This Board also should evaluate anew what conclusions to draw from Mr. Bensayah's lack of financial success. (b)(1)

(b)(1)

¹² (u) Mr. Bensayah initially was held by Bosnian authorities because his immigration records included more than one name.

¹³ ~~(S)~~ This is a particularly important point for this Board to consider. (b)(1)

(b)(1)

(b)(1)

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(b)(1)

D. (u) Bosnia's Intent to Seek the Return of Mr. Bensayah

(u) The Bosnian government has taken a number of steps that demonstrate its unequivocal commitment to repatriating the six men to Bosnia. *See generally, Summary of Actions of the Government of Bosnia and Herzegovina Concerning the Return of the Six Detainees Taken From Bosnia and Herzegovina to the U.S. Prison at Guantanamo Bay, Cuba*, attached to Joint App. at Ex. B.

(u) Specifically, on April 21, 2004, the Bosnia-Herzegovina Parliament House of Representatives Commission on Human Rights, Refugees, Immigration and Asylum ("Commission") issued a report, in accordance with Article 40 of the Rules of Procedure of the Bosnia-Herzegovina Parliament House of Representatives, requesting that BiH and FBiH authorities

(u) [I]nitiate immediately proceedings with the authorities of USA related to return of [Hadj Boudella] and others in this case detainees [sic] held in the military base, Guantanamo Cuba.¹⁶

Id. at (f), Unofficial Translation of Commission Report.

(u) The Commission also "order[ed] BiH authorities (the Council of Ministers of BiH) and FBiH authorities (government of FBiH) to completely implement the decision

(b)(1)

(b)(1)

¹⁶ (u) Nadja Dizdarevic, Mr. Boudella's wife, submitted an application to the Commission on February 26, 2004, to initiate proceedings to repatriate all six of the men to Bosnia.

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of the HR Chamber number CH/02/8697 and others from 3 September 2002." *Id.* That Court concluded—and the Commission accepted its conclusions—that various rights of the six were violated as a result of Bosnia's handover of them to the U.S. *See Human Rights Chamber Decision of October 11, 2002, Ex. B(c).*

(U) On November 16, 2004, the Bosnian Council of Ministers adopted the recommendations of the Ministry of Justice with respect to the six detainees, including Recommendation 9 that stated it is necessary to begin negotiations with the United States government for their repatriation. Additionally, on January 31, 2005, Slobodan Kovac, the Bosnian Minister of Justice confirmed in a statement that his office intends to seek the return of Mr. Bensayah to Bosnia from Guantanamo.¹⁷ *See Joint App. at Ex. B(h).*

(U) Notably, whatever the terrorist threat level was thought to have been in 2001, recently NATO reported that the current possibility of a terrorist threat in Bosnia is very low. *See NATO: Possibility of Terrorist Threat in BiH Very Low, Fena* (March 22, 2005) attached to Joint App. at Ex. P.

E. (u) Mr. Bensayah Never Took Up Arms Against the United States and There Is No Basis in the Record to Conclude That He Would In the Future Do So

1. (u) ~~Mr. Ait Idir's and Mr. Boudella's CSRTs~~ Recognized the Absence of Evidence Purporting to Show that the Six Were Involved in a Plot to Bomb the U.S. Embassy.

(u) a. Finding of Ait Idir Tribunal.

(b)(1)

¹⁷ (u) On March 30, 2005, the House of Representatives of the Parliament of Federation of Bosnia and Herzegovina (a regional government body in Sarajevo) declared to the Bosnian Prime Minister that the Bosnian government should actively seek the release of the six men from Guantanamo. *See Declaration* attached to Joint App. at Ex. Q.

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(b)(1)

(b)(1)

b. Finding of Boudella Tribunal.

(b)(1)

(u) This Board is mandated by its own procedures to make an assessment, as Mr. Boudella's CSRT did, of the reliability of any piece of information presented in the proceeding, including whether the information is "specific as to the matters described," "corroborated by other information," and was obtained by a source that "appears credible." *Administrative Review Board Process*, ARB proceedings at (e)(3). The procedures specifically recognize that information that is "vague, unsupported, or not established through reliable sources" is considered less reliable.

(b)(1)

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(u) Notably, there is no evidence cited in Mr. Bensayah's CSRT record linking him to any purported bomb plot—no allegations that he possessed maps, sketches, bombs or bomb-making components, weapons, or any other tangible evidence that would show his intent or demonstrate his involvement in such a plan. This Board should take note of the complete absence of credible evidence showing that he was involved in any alleged plot to bomb the U.S. Embassy in Bosnia, and the conclusions of two CSRTs calling into question the existence of any plot involving the six men.

2. (u) Mr. Bensayah was not a member of the GIA

(u) There is no basis in the record to believe Mr. Bensayah was part of the GIA, an organization with which he appears to have had no contact. (b)(1)

(b)(1)

(u) Moreover, the GIA is an organization with the intent to harm the government of Algeria, not Bosnia or the United States, and its activities from 1992 through the mid-1990's were limited to Algeria.¹⁹ The organization has been largely inactive since that time. Mr. Bensayah had long since departed Algeria when this group became active there. See *Terrorist Organization Reference Guide* (U.S. Dept. of Homeland Security January 2004), *Encl. (2) to Lahmar CSRT Decision Report* at Exhibit R-3, attached to Joint App. at Ex. E(e). However, it is easy to see why an embittered and self-interested ex-brother-in-law wanting to smear Mr. Lahmar, would have considered it useful to tell U.S. intelligence that Mr. Lahmar was the leader of a GIA cell in Bosnia, and to supply a list of purported Algerian GIA members "operating" in Bosnia.

(b)(1)

¹⁹ (u) The United States Department of State has confirmed that the GIA "began its violent activities in 1992" after Algiers voided the victory of Islamic Salvation Front (FIS)—the largest Islamic opposition party—in the first round of legislative elections in December 1991." *Patterns of Global Terrorism, 2003* (U.S. Department of State, June 2004).

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(b)(1)

F. Mr. Bensayah Has no Intelligence Value

(u) There is almost no mention of the purported U.S. Embassy bombing plot, the pretext for his continued detention, in any of the classified summaries of his interrogations. Aside from the fact that detention for purposes of interrogation and intelligence gathering is unlawful, *see Hamdi v. Rumsfeld*, 542 U.S. ___, slip op. at 13 (2004), it shows Mr. Bensayah poses no risk. Mr. Bensayah was never interrogated about his participation in any activity that actually has resulted in harm to the United States or its allies, and the record reflects no evidence of any actual plan to undertake such activity.

(u) The record amply reflects that Mr. Bensayah has been questioned repeatedly, and by all appearances any information he had of any intelligence value has been disclosed during his over three-year long detention. Year four of interrogation on the same topics is just as unlikely to yield new or useful information as years one, two, and three have been, because Mr. Bensayah simply has no information that would be of any intelligence value to the United States. Moreover, due to the poor state of Mr. Bensayah's mental health, his participation in future interrogations is likely to be particularly unhelpful to the United States.

G. Mr. Bensayah's Health

(u) The Board may be aware that Mr. Bensayah suffers from certain medical conditions that will make it difficult for him to present himself favorably to the Board in person, should he have the opportunity to do so. He was known to bang his head against the bars of his cell during his confinement, and he has been required to take certain medication while at Guantanamo. He believes he has been treated for mental illness, but we are not in a position to say so with certainty. He has asked that we receive his medical file to review it, but so far our requests have been rejected.

(u) Mr. Bensayah's mental health has deteriorated substantially due to his ongoing detention in Guantanamo. Counsel have been denied access to Mr. Bensayah's medical records in Guantanamo but were able to survey Mr. Bensayah's mental health using a questionnaire prepared by forensic psychiatrist, Dr. Daryl Matthews. *See Sample Proxy Psychiatric Exam and Mental Status Examination*, attached to Joint App. at Ex. L. Dr. Matthews is the Director of the Forensic Psychiatry Program at the John Burns School of Medicine, University of Hawaii. *See Curriculum Vitae of Dr. Daryl B. Matthews*, attached to Joint App. at Ex. K. For the last ten years, Dr. Matthews has also served as a Consultant to the U.S. Army Medical Command and Co-Director of Training in Forensic Psychiatry at Tripler Army Medical Center in Honolulu, Hawaii. *Id.*

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(u) Based on his review of Mr. Bensayah's responses to the questionnaire, Dr. Matthews determined that Mr. Bensayah may be suffering from a Major Depressive Episode due to his treatment and prolonged detention at Guantanamo. See Letter from Forensic Psychiatrist, Dr. Daryl B. Matthews, attached as Exhibit 3. Mr. Bensayah also may be suffering from Post Traumatic Stress Disorder, based on his nightmares, numbing, feeling of detachment and other symptoms. The experiences Mr. Bensayah has encountered in detention, including beatings, forced isolation and witnessing torture of others, are well-known to trigger major depression and stress disorders in previously healthy people. Dr. Matthews concludes that Mr. Bensayah is likely to suffer continuing and exacerbated symptoms of depression and stress disorder if he is not removed from the stressors he currently faces in detention.

II. (u) CSRT ERRORS

A. (u) The Classified CSRT Summary Has Errors This Board Should Note²⁰

(u) We are reluctant to spend too much time pointing out inconsistencies in the CSRT record. That is not the issue before this Board. Nevertheless, pointing out some of the errors made clear in that record [and we have not tried to identify all we found] will help this Board avoid similar errors. That review also should assist this Board in better understanding the facts in the record before it. The fact that the CSRT was asked by DOD to consider a *Time Magazine* article in reaching its determination is just one sign that DOD has no actual, damning intelligence about Mr. Bensayah. See Encl. (2) to Bensayah CSRT Decision Report at Ex. R-4, attached to Joint App. at Ex. F(f).

(u) For the sake of simplicity, we now review paragraphs 1 (a) – (d) found on page 1 of 2 of the *Classified Summary of Basis for Tribunal Decision*, attached to Joint App. at Ex. F(b). We do not repeat, but rely on the detailed explanations offered above. (The letter designations below correspond to those found in that CSRT page.)

- (S//NF) a. (b)(1)
- (S//NF) b.

²⁰ *Classified Summary*, page 1, attached to Joint App. at Ex. F(b).

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(~~SECRET~~) c.

(b)(1), (b)(7)(A)

(U) Rel. SFO d.

III. (U) CONCLUSION

(U) Even with the types of contrary, but not supported, statements identified above, nothing in the record provided to us, as counsel for Mr. Bensayah, is sufficient to conclude he poses any risk to the U.S. or its allies. He is, as he was in 2001, a simple, poor, uneducated man who is confused about why he was taken away from his wife and two young daughters more than three years ago. His family has also suffered greatly due to his absence. In his wife's affidavit, she reports that her daughters require psychiatric treatment since their father's disappearance. See *Affidavit of Anela Kobilica*, ¶ 11, Joint App. Ex. F(e).

(U) This Board should carefully examine the information available to it, including the analysis provided above, and should find that Mr. Bensayah does not pose a threat to the U.S. or its allies.

(u) We stand ready to provide any further information the Board requests.

Respectfully Submitted,

Stephen H. Oleskey 2005

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Belkacem Bensayah
Exhibits to ARB Submission

1. **Algerian Citizenship Certificate**
2. **Photograph of Mr. Bensayah**
3. **Letter from Forensic Psychiatrist Dr. Daryl B. Matthews (March 24, 2005)**

UNCLASSIFIED

Bensayah Exhibit 1

UNCLASSIFIED

Ambasciata
della Repubblica Algerina
Democratica e Popolare
Roma

سفارة
الجمهورية الجزائرية
الديمقراطية الشعبية
روما

N° 1505 A.C

**ATTESTATION
DE
NATIONALITE**

L'Ambassade de la République Algérienne Démocratique et
Populaire à Rome atteste par la présente que :

Nom : **BENSAYAH**
Prénom : **Belkacem**
Né le : **10/09/1962** à : **Ouargla**

Est de nationalité Algérienne

La présente attestation est délivrée pour servir et valoir ce que
de droit.

Rome, le 13 janvier 2005



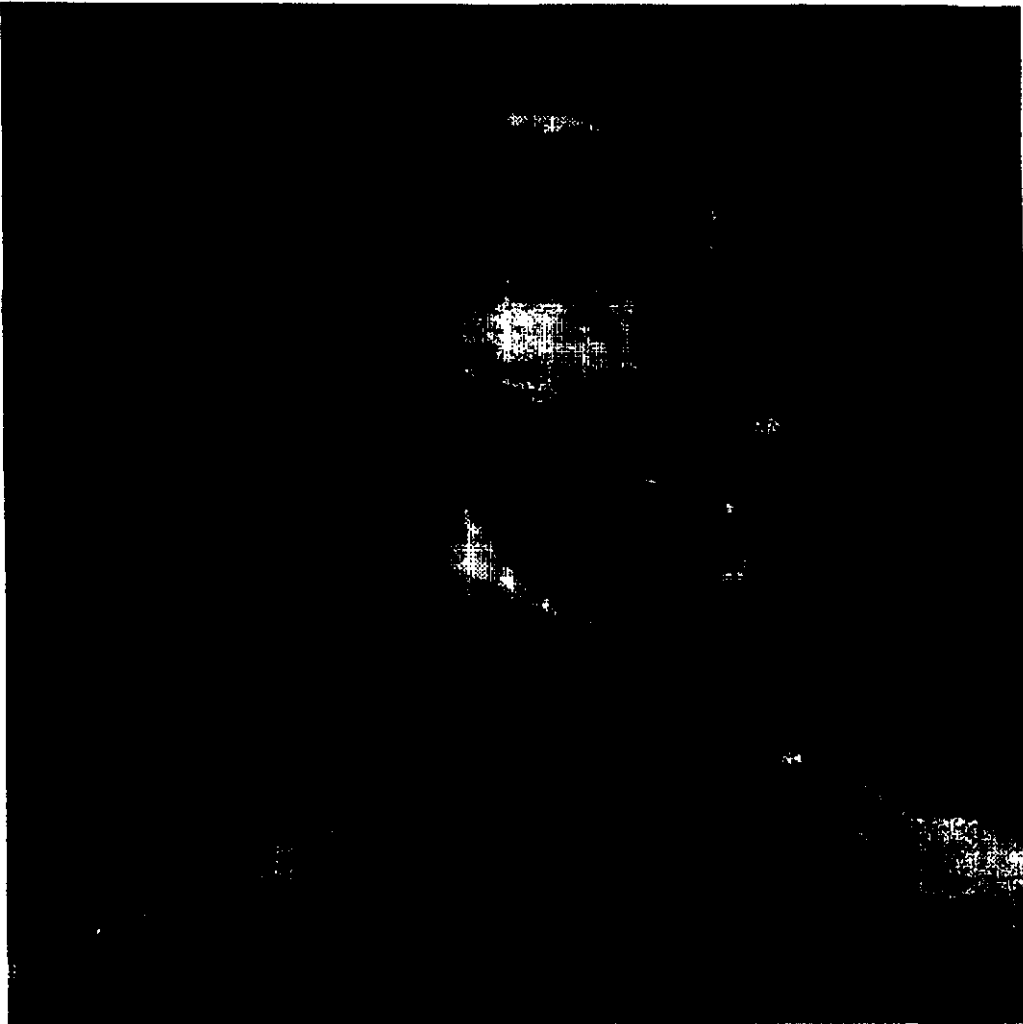
Le Chargé des Affaires Consulaires

Fares

UNCLASSIFIEL

Bensayah Exhibit 2

UNCLASSIFIED



Belkacem Bensayah

UNCLASSIFIED

Bensayah Exhibit 3

UNCLASSIFIED

DARYL B. MATTHEWS, M.D., PH.D.
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HONOLULU, HAWAII, 96813
PHONE: 808-735-8505
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DIPLOMATE IN PSYCHIATRY AND FORENSIC
PSYCHIATRY, AMERICAN BOARD OF
PSYCHIATRY AND NEUROLOGY

FORENSIC PSYCHIATRY

March 24, 2005

Stephen H. Oleskey, Esq.
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109

Re: Belkacem Bensayah

Dear Mr. Oleskey:

You have asked me to provide you with assistance in evaluating Mr. Bensayah's mental health situation in view of his ongoing detention at the United States Naval Base, Guantanamo Bay, Cuba. You have expressed concern about his mental condition, yet you have been unable to secure an independent mental health evaluation. Because of this inability, my colleagues and I at the University of Hawaii Forensic Psychiatry Program, with the assistance of Anita Schlank, Ph.D., have developed an attorney/translator-administered questionnaire that we believe to be appropriate for the proxy assessment of individuals in confinement without access to mental health evaluation. My qualifications for conducting such an assessment are outlined in the enclosed c.v.

The findings presented below are derived from attorney/translator administration of this questionnaire, interpreted by Dr. Schlank and me. This is not, however, to be considered a substitute for a full psychiatric or psychological evaluation and the opinions are limited as there was no personal examination.

Findings and Opinions

Mr. Bensayah endorsed sufficient symptoms to suggest that he may meet full criteria for a diagnosis of a Major Depressive Episode. These symptoms included decrease in appetite, loss of energy, insomnia, psychomotor retardation or agitation, dysphoric mood and hopelessness about the future.

Mr. Bensayah also endorsed symptoms suggestive of Acute Stress Disorder or Post Traumatic Stress Disorder. These symptoms included irritability, difficulty concentrating, feeling of detachment from others, numbing, difficulty falling or staying asleep, and intrusive distressing recollections of traumatic events/images.

Mr. Bensayah reported being subjected to beatings, forced isolation, violation of very

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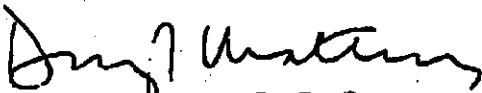
important religious practices, near suffocation, and being kept in painful positions. He also reported having to witness torture of other detainees and being threatened with attacks by animals or insects. These experiences are well known to precipitate major depression and stress disorders in previously healthy individuals.

It should be noted that the manner in which Mr. Bensayah responded to the questions suggested that it was likely he was reporting accurately. He did not show the over-endorsement of symptoms or experiences that might be seen in a person who is malingering. (For example, he did not claim to have witnessed murder, given electric shock, or to have been threatened with execution, and did not claim all symptoms that might appear to be related to depression or trauma responses.)

In my opinion Mr. Bensayah, is likely to suffer continuing and exacerbated symptoms if he is not removed from the stressors described.

Please let me know if you would like clarification of these findings.

Sincerely,



Daryl Matthews, M.D., Ph.D.