

## COVINGTON & BURLING

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February 12, 2005

Delivered to OARDEC via Court Security Office

Administrative Review Board  
Guantánamo Bay Naval Station  
Guantánamo Bay, Cuba

Re: ARB Hearing for Yasin Qasem Muhammad Ismail, ISN 522

Dear Members of the Board:

I am an attorney representing Yasin Qasem Muhammad Ismail in habeas corpus proceedings in federal court in the District of Columbia. I respectfully submit this letter in support of Yasin's release from detention at Guantánamo Bay. Over the past few months my associates and I have met with Yasin a number of times and have gotten to know him well. He is an amiable man whose fondest wish is to return to his small village in Yemen, where he will be welcomed by his family and community. Equally important, he is a very sick man who is clearly no danger to anyone.

I recognize that the Board's function in the ARB hearing is not to re-examine Yasin's status as an "enemy combatant." The Board should be aware, however, that a federal judge ruled on January 31, 2005, that the military's CSRT hearings were unconstitutional and fundamentally unfair, in part because secret evidence was never shown to the detainees and in part because evidence derived from torture and abuse was deemed admissible by the tribunals.

The federal court's concerns with the CSRT process are particularly pronounced in Yasin's case, since his designation as an "enemy combatant" is premised entirely on statements made to interrogators while he was suffering from injuries he received at the hands of American soldiers. While in detention in Afghanistan, Yasin was interrogated more than a dozen times and was beaten, kicked and stomped on by soldiers, leaving him with a fractured shoulder and broken nose. He arrived at Guantánamo in poor health and in mortal terror of further abuse and torture. As the *Washington Post* reported on February 10, 2005, Yasin is one of a number of detainees who were subjected to sexual abuse and humiliation while at Guantánamo. It is unsurprising, therefore, that he refused to testify before his CSRT until he was assured that he would not be subjected to torture at the hearing.

Yasin represents no danger to anyone. Although three years of detention at Guantánamo have been very hard on him, he retains his easy-going manner and is still quick to laugh. He has told me that he harbors no ill will toward the United States and that he simply wants

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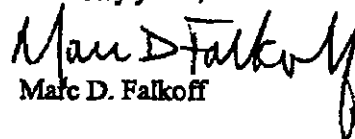
to move forward with his life. He asks only to be allowed to return to his childhood home in Gabal Howard, where his parents and eight siblings live on the same property where Yasin once helped his father tend sheep. Yasin's first task will be to regain his health, which has deteriorated in the past three years. He has constant pain in his shoulder and suffers from an abscessed tooth that is persistently infected. In addition, he was recently diagnosed with tuberculosis and remains quite weak. In such a state, he clearly represents a danger to no one.

More important, Yasin will be returning to a supportive environment and a family that will nurture his reintegration into village society. As soon as he is healthy, Yasin intends to go to university to study the Arabic language, with an eye towards a career in teaching. He will be following in the footsteps of his two older brothers. One is presently in college studying Arabic; the other, Jamel, is a university graduate with a degree in Chemistry and employment in the school's Chemistry department.

In order to get a sense of the supportive environment that Yasin will be returning to, I ask the Board to please read the attached affidavit from his brother Jamel. His words are a moving testament to the deep love that Yasin's family feels for him. God willing, Yasin will realize his deep desire to marry and raise children in an equally loving environment.

Yasin is not a member of Al Qaida and never was. He is not a secret operative bent on harming the United States. He is a gentle man who at the moment is very sick and desires nothing more than to return to the comfort and security of his family. He is no danger to the United States or to anyone. I therefore respectfully ask that the Board allow him to return to his home in Yemen.

Sincerely yours,

  
Marc D. Falkoff

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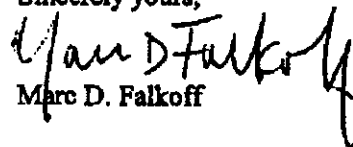
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**Affidavit of Jamel Khaseen Mohammad**

Comes now, Jamel Khaseen Mohammad, under oath, who makes the following statement in Sana'a, Yemen:

I am the older brother of Yasein Khaseen Mohammad Hasmil. I am the second of five sons. My parents also have three daughters.

Our family comes from Ibb, in Yemen, where we still live. My father has been a farmer all of his life, and my mother is a housewife. It has been their ambition for their children that everyone should benefit from a good education, and have the chance to get a good job in life.

Our oldest brother is still a student at the University of Ibb, studying the Arabic language with a view perhaps to becoming a teacher. I secured a B.S. and am an employee of the University in the Chemistry department. Our other two brothers are still students, as are the three girls.

Yasein would be 22 now. He was born in 1982. He graduated from high school, and had planned to go to university and wanted to study Arabic language. He thought that he would become a teacher of Arabic. This is very important work as it allows the reader of the Koran to understand the original text.

Yasein was always a very studious and responsible child. He spent much of his time working with our father to help with the sheep. It is normal in our villages for families to own animals. Those who are young and who are responsible are given the job of looking after the animals. After going to school all day, Yasein would come home to work with the sheep in the evening.

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When he was very young he used to be keen on football. He played all sorts of positions for the local team but gradually played this less as he felt obliged to help our father with the animals.

Yaschin loved reading. There were not many books available in our village, so he concentrated on reading all of the school books. Yaschin also loved poetry - he was a romantic. When he was young, his girlfriend was called Sabah (which means morning in our language), who was from a nearby village. He was keen on poems that we call "ghazel", which are long poems that are always from man to woman.

I, too, like to write poems, and recently wrote the following one about the impact of Yaschin's absence on my mother. It is roughly translated as follows:

#### Poem for My Mother

You ask me how my mother lives --  
Please do not wait to hear.  
You ask me how my mother lives --  
Words cannot speak her tears.

I know not even where to start,  
Which door might open to  
The darkness in my mother's heart  
Blacked out by censored cards.

My mother's heart remains a void  
Yet papered round with pain.  
My mother's heart remains a void  
Since Yaschin went away.

My mother's body struggles on:  
Watch her burning soul.  
My mother's body struggles on,  
With sorrow as her shrine.

My mother names before our God  
The cause of all her pain  
My mother kneels in prayer to God  
As tears run down her eyes.

You ask me how my mother lives --  
Please do not wait to hear.  
My mother's heart swells larger than  
More language can declare.

Yasein also loved music. His favorite singer was Ayub from Yemen.

When he was young, he was perhaps not as religious as he should have been. Indeed, as his older brother I was the one who would criticize him for not saying his prayers enough. As a result, perhaps, of my efforts, when he was 16 or 17 he began to get more serious about his faith.

He was always a very peaceful person. We come from a village where the Imam is someone who was able to read and write, and who would lead us in prayer and teach us our obligation to pay *zakat* (the charity that we are obliged to give, as Muslims). This was mainly what Yasein absorbed from his religious faith. He certainly never had any inclination towards violence, which was the opposite of what we learned and believed in.

Yasein went to Pakistan prior to going to university. He went around September 2000 in order to learn Arabic better. He was one of two people who went from the village. The other was Sadeq Mohammad Sa'id. When they had studied in Pakistan, they were going on to do missionary work (teaching Arabic and the Quran) in Afghanistan.

Our family heard about Yasein being in Guantanamo Bay from a Red Cross letter. Also, the governmental newspaper published names of people in Guantanamo Bay. There were about 32 names listed on the first occasion, and while it was misspelled, his name was in that group.

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When he was first at Guantanamo every three to four months our family received letters, but we have received none for about nine months. His first letter asked us to inform the Yemen embassy officials and ask them to demand that he be freed.

We are a very poor family, but we have made efforts made to help him. We have contacted our parliamentary representatives, and local human rights advocates. We also contacted Jamel al-Morshed, a lawyer. We have been able to get no assistance from the United States about Yassin at all.

I know my brother very well and cannot believe that he would have been involved in violence. I have heard about the foreigners being "sold" over to the Americans for rewards, as purported Taliban soldiers, and am very concerned that this must have happened to my brother.

Signed under oath this \_\_\_\_ day of April, 2004.

  
Jamel Khassim Mohammad

Witnessed:

  
Nabeeh Raza