

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

-----	X	
ISA ALI ABDULLA ALMURBATI, <i>ET AL.</i> ,)	
)	
Petitioners,)	
)	
v.)	
)	Civil Action No. 04-1227 (RBW)
GEORGE WALKER BUSH, <i>ET AL.</i> ,)	
)	
Respondents.)	
)	
-----	X	

RESPONSE TO SUPPLEMENTAL DECLARATION OF MICHAEL I. BUMGARNER

Pursuant to this Court’s direction at the December 16, 2005 hearing, Respondents submitted a supplemental declaration of Colonel Michael I. Bumgarner, dated December 20, 2005 (the “Supplemental Declaration”). Mr. Al Dossari hereby submits his response to the Supplemental Declaration.

The Supplemental Declaration, meant to address the question of whether Mr. Al Dossari is being held in isolation, so lacks specificity with respect to Mr. Al Dossari’s conditions of confinement that it is of virtually no probative value. Further, the Supplemental Declaration makes clear that pursuant to the unfettered authority Respondents purport to exercise over Mr. Al Dossari, Respondents do transfer Mr. Al Dossari among camps in Guantanamo at their whim. A Court order is therefore necessary to ensure that Mr. Al Dossari is not held in isolation in the future, even if in fact he is being held currently in conditions less isolating than those in Camp Five.

The Supplemental Declaration Is Hopelessly Vague

The Supplemental Declaration states that Mr. Al Dossari has been held in Camp One since November 28, 2005, and in the “mental health block” of Camp One since December 13,

2005. Supplemental Declaration ¶¶ 3-4. While the Supplemental Declaration is confusing in that it addresses conditions in Camp One generally and the mental health block in particular in alternating sentences, a close reading of the document reveals that no substantive detail is provided regarding Mr. Al Dossari's current conditions of confinement.

For example, the Supplemental Declaration states that in the cell blocks of Camp One where Mr. Al Dossari was held *prior* to moving to the mental health block, “[d]etainees can talk to each other between cells, see each other, exercise with or around each other during recreation, and pray with each other.” Supplemental Declaration ¶ 5.¹ The Supplemental Declaration also states that in the blocks where Mr. Al Dossari was housed *prior* to moving to the mental health block, detainees were “housed in direct proximity [to him], including adjacent to him and across from him.” Supplemental Declaration ¶ 6.²

With respect to Mr. Al Dossari's current conditions, the Supplemental Declaration does not aver that Mr. Al Dossari is able to talk to, see, or exercise and pray with, other detainees. It does not represent that he is in direct proximity to other detainees. Rather, it simply states that Mr. Al Dossari “can interact” and “communicate” with “several other detainees [who] are housed on the mental health block in close enough proximity.” Supplemental Declaration ¶¶ 4, 6.

Thus, while Respondents appear to concede that Mr. Al Dossari is currently held in more isolating conditions than those in which he had been held at first in Camp One, they do not

¹ No representation is made that Mr. Al Dossari specifically was afforded such privileges in those cell blocks, and thus these statements have no bearing on the instant application.

² Notably, Respondents continue to argue that Mr. Al Dossari's interactions with guards and interrogators have some bearing (other than negative) on his psychiatric state. Supplemental Declaration ¶ 6.

describe with sufficient specificity or detail the true nature of Mr. Al Dossari's current conditions. As such, it is not possible to determine whether Mr. Al Dossari is being held under conditions as isolating and harmful as those in Camp Five. Because the Supplemental Declaration so lacks specificity with respect to the conditions under which Mr. Al Dossari is being (and has been) held in Camp One, it lacks probative value and should not be considered favorably in connection with the Government's opposition to the instant motion.

The Relief Requested Is Necessary to Prevent Respondents from Isolating Mr. Al Dossari

The Supplemental Declaration of course does not address Respondents' assertion that they are entitled to hold Mr. Al Dossari under any conditions they see fit. Indeed, the Supplemental Declaration establishes that Respondents have held Mr. Al Dossari in several locations since the filing of this motion. Respondents offer no explanation as to why the conditions of confinement of a suicidal detainee have been altered – by the Government's explicit and implicit admission – from more restrictive (Camp Five) to less restrictive (Camp One) and back to more restrictive (Camp One, mental health block) in a matter of weeks.

Moreover, because Respondents assert that they have unfettered authority over Mr. Al Dossari's conditions, they may at any time return Mr. Al Dossari to Camp Five or another isolating setting – if they have not done so already. As such, Mr. Al Dossari needs the protection

of this Court to ensure that he is not held in conditions, such as those he was held in prior to the October 15, 2005 suicide attempt, that will further harm his fragile psychiatric state.

Dated: December 28, 2005

Respectfully submitted,

DORSEY & WHITNEY LLP

By: /s/ Seth B. Waxman
Seth B. Waxman (D.C. Bar No. 456156)
Mark S. Sullivan*
Christopher Karagheuzoff*
Joshua Colangelo-Bryan*
250 Park Avenue
New York, NY 10177
(212) 415-9200

Counsel for Petitioners

CENTER FOR CONSTITUTIONAL RIGHTS
Barbara Olshansky
666 Broadway, 7th Floor
New York, NY 10012

Co-counsel for Petitioners

*Admitted *pro hac vice*