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THE HONORABLE ROBERT S. LASNIK



04-CV-00777-APPL

Doc 19

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Lieutenant Commander CHARLES SWIFT, a
resident of the State of Washington, as next
friend for SALIM AHMED HAMDAN,
Military Commission Detainee,
Camp Echo,
Guantanamo Bay Naval Base,
Guantanamo Bay, Cuba,

Petitioner,

v.

DONALD H. RUMSFELD, United States
Secretary of Defense; JOHN D.
ALTENBURG, Jr., Appointing Authority for
Military Commissions, Department of Defense;
Brigadier General THOMAS L.
HEMINGWAY, Legal Advisor to the
Appointing Authority for Military Commissions;
Brigadier General JAY HOOD, Commander
Joint Task Force, Guantanamo, Camp Echo,
Guantanamo Bay, Cuba; GEORGE W. BUSH,
President of the United States,

Respondents

NO. CV04-0777L

**DECLARATION OF
LIEUTENANT COMMANDER
CHARLES SWIFT**

[FILED UNDER SEAL]

Petitioner files this document under seal, in a manner consistent with the
Classified Information Procedures Act, 18 U.S.C. app. 3 § 1 *et seq.*

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DECLARATION OF LIEUTENANT COMMANDER
CHARLES SWIFT - 2
(CASE NO. CV04-0777L)
[43439-0001/SL041240.014]

PERKINS COIE LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
(206) 583-8888

1 I, Lieutenant Commander Charles Swift, hereby declare and state as follows:
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3 1. I am over the age of eighteen (18) years. The following is true and correct to
4 the best of my knowledge. I have personal knowledge of the matters stated herein and, if
5 called upon to testify, could competently testify thereto.
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8 2. I am a Lieutenant Commander in the United States Navy Judge Advocate
9 General Corps, attached to the Office of the Chief Defense Counsel for Military Commissions
10 and detailed to represent Salim Ahmed Hamdan. Pursuant to my representation of Mr. Salim
11 Ahmed Hamdan, I have made six separate visits to Guantanamo Bay to meet with him. I
12 have spent an average of 20 hours per visit with Mr. Hamdan.
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18 3. Mr. Hamdan is housed in Camp Echo within Camp America at Naval Station
19 Guantanamo Bay and located approximately 1000 yards from Camp Delta. The portion of
20 Camp Echo where Mr. Hamdan is detained is composed of eight separate huts laid out in an
21 inward facing square. In the center is a guard station. Each of the huts is windowless and
22 subdivided into two separate compartments. Each compartment contains a steel cell
23 approximately 8 feet by 5 feet, a shower facility approximately 6 feet by 5 feet, and open
24 floor space approximately 14 feet by 10 feet. When I meet with Mr. Hamdan, he is normally
25 brought out of his cell and shackled by means of a waist chain and ankle shackles to the floor.
26 These measures are taken as a standard security precaution and are not at my request.
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36 4. At all other times a guard is stationed in the open area directly outside Mr.
37 Hamdan's cell and the door to the hut is secured.
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40 5. When I first met with Mr. Hamdan on January 30, 2004, he had been in Camp
41 Echo since early December. Mr. Hamdan reported to me that he was allowed out of his cell
42 three nights per week for an hour of exercise. Because his exercise was at night Mr. Hamdan
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1 had not seen sunlight for almost 60 days. The only reading material that he was furnished
2 during that period of time was a copy of the Koran. The camp guards confirmed this report.
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5 6. Shortly after reporting Mr. Hamdan's conditions to the press, Mr. Hamdan
6 was permitted outdoor exercise once a day for a period of 45 minutes and was given a library
7 book titled "Medical Oddities Of The Middle East" the cover of which featured a picture of
8 Siamese twins. Mr. Hamdan has also been given an Arabic translation of the Bible, but has
9 been refused copies of basic religious text such as "Stories of the Prophet", an analysis of the
10 Koran, and historical works such as a modern history of Yemen by Muhsin Al-Aini (former
11 Ambassador of Yemen to the United States and the UN) and Ancient History of Early
12 Islamic Yemen (written in the 12th Century) purchased by me for Mr. Hamdan.
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21 7. Over the course of the last three months, I have noted significant swings in
22 Mr. Hamdan's moods including uncontrollable weeping at inappropriate times, undirected
23 anger, and unresponsiveness. At times he is extremely groggy and has difficulty
24 concentrating and at others he is boisterous and affable. Mr. Hamdan reports that he has
25 difficulty remembering details when questioned about both his childhood and recent events
26 and has reported that he has difficulty controlling his anger.
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33 8. Guards have reported him as moody, withdrawn, and temperamental. During
34 my two longest absences of four weeks and three weeks, the guards reported on both
35 occasions that he was withdrawn and uncommunicative for periods of more than a week
36 during my absence.
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41 9. Following my four-week absence, I discovered during my visit on 16 April,
42 that Mr. Hamdan had been on a hunger strike. The guards had reported that he had been on
43 the strike for approximately a week. When I discussed the strike with Mr. Hamdan, he
44 indicated that he had begun the hunger strike the Friday before but had taken food on
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DECLARATION OF LIEUTENANT COMMANDER
CHARLES SWIFT - 4
(CASE NO. CV04-0777L)
[43439-0001/SL041240.014]

PERKINS COIE LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
(206) 583-8888

1 Monday or Tuesday, and then not eaten until my arrival. When I asked him why he was on
2 the strike, he indicated that he desired to kill himself because he could not bear living in
3 Camp Echo. Over the course of four hours, I persuaded Mr. Hamdan to end his strike in part
4 by providing him with pictures taken of his children in Yemen the previous week at an
5 Amnesty International Conference, and in part by informing him of my petition for mandamus
6 on his behalf and urging him to give the courts an opportunity to speak on his case.
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8 Authorities within the Staff Judge Advocate's Office for Joint Task Force Guantanamo
9 reported that they were unaware of the hunger strike.
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17 10. Also during this visit I was informed that a video camera was going to be
18 installed in Mr. Hamdan's cell to replace the guard stationed outside. Mr. Hamdan expressed
19 dread at the thought of being left completely alone. Although at times antagonistic, Mr.
20 Hamdan considers the human presence of the guard outside his cell to be reassuring and
21 becomes extremely agitated at the thought of being left in total isolation. Mr. Hamdan
22 reports that on the few occasions that the guard has stepped outside of the compartment and
23 closed the door, he has experienced fits of extreme anxiety and shortness of breath.
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31 11. Based on the above observations, on April 26, 2004, I requested a mental
32 health evaluation of Mr. Hamdan by Dr. Daryl Matthews and Dr. Hanan Hassanin to
33 determine his mental condition and appropriate treatment/confinement. I also requested in
34 the same communication that the removal of the guard from Mr. Hamdan's compartment be
35 delayed until such time as an evaluation can be performed. A true and correct copy of my
36 request is attached hereto as Exhibit A (at pages 8 - 47).
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43 12. To date I have not received a response to my request.

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45 13. On May 1, 2004, I again visited Camp Echo. During this visit, Mr. Hamdan
46 had been moved to a temporary cell to facilitate the installation of a video camera in his cell.
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1 The Sergeant of the Guard reported to me that the installation should be completed on or
2 about 3 May and the new monitoring procedures put into place, placing Mr. Hamdan in
3 complete isolation.
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7 14. Mr. Hamdan reported that on April 29, 2004 a Navy Officer reporting to be a
8 psychologist had visited him. Mr. Hamdan believed that the visit was initiated after he
9 expressed suicidal wishes to a guard. Mr. Hamdan reported that he confirmed he had suicidal
10 thoughts to the psychologist and that he had been able to deal with Camp Delta after an initial
11 adjustment period, but had become increasingly more unsettled in Camp Echo and was not
12 adjusting. The psychologist offered to continue to visit him. Mr. Hamdan, however, is
13 reluctant because of the charges against him and my advice that he not discuss his case with
14 anyone but myself. Mr. Hamdan has expressed a willingness and desire to be seen and
15 treated by Dr. Matthews provided that his treatment is confidential.
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25 **I declare under penalty of perjury under the laws of the United States**
26 **and the State of Washington that the foregoing is true and correct to the**
27 **best of my knowledge and belief.**
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30 DATED this 3rd day of May, 2004.
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36 By /s/ Lieutenant Commander Charles Swift
37 Lieutenant Commander Charles Swift,
38 N.C. Bar #21084
39 Petitioner, as Next Friend for
40 Salim Ahmed Hamdan
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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this 3rd day of May, 2004, I caused to be served a true and correct copy of **Declaration of Lieutenant Commander Charles Swift** upon the following, at the addresses stated below, via the method of service indicated:

Mr. John McKay	<u> X </u>	Via hand delivery
Brian C. Kipnis	<u> </u>	Via Certified Mail, Return Receipt Requested
U.S. Attorney's Office	<u> </u>	Via Overnight Delivery
601 Union Street, Suite 5100	<u> </u>	Via Facsimile
Seattle, WA 98101	<u> </u>	Via E-filing
Jonathan L. Marcus	<u> </u>	Via hand delivery
Appellate Section, Criminal Division	<u> </u>	Via Certified Mail, Return Receipt Requested
U.S. Department of Justice	<u> </u>	Via Overnight Delivery
601 D Street, N.W., Suite 6206	<u> </u>	Via Facsimile
Washington, D.C. 20530	<u> X </u>	Via E-filing

DATED at Seattle, Washington, this 3rd day of May, 2004.

PERKINS COIE LLP

By /s/ Harry H. Schneider, Jr.
Harry H. Schneider, Jr., WSBA #9404
Joseph M. McMillan, WSBA # 26527
David R. East, WSBA #31481
Charles C. Sipos, WSBA #32825
Attorneys for Petitioner