

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 04-60001-CR-COOKE/BROWN(s)(s)(s)(s)(s)

UNITED STATES OF AMERICA,

vs.

JOSE PADILLA,

Defendant,

\_\_\_\_\_ /

**AFFIDAVIT OF JOSE PADILLA**


Before me, the undersigned, appeared JOSE PADILLA who, being duly sworn, affirms:

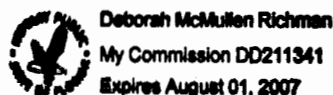
1. I make this Affidavit from my own personal knowledge.
2. I have reviewed the motion my attorneys filed on my behalf to dismiss the indictment lodged against me based on outrageous government conduct, identified as docket entry number 597.
3. The factual allegations contained in that motion, as they pertain to the treatment I received while detained as an enemy combatant, are true.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Jose Padilla

Sworn and subscribed before me this 1st day of December, 2006. Affiant is personally known to undersigned.

  
\_\_\_\_\_  
Notary Public, State of Florida  
My commission expires: 8/1/07



**EXHIBIT A**

**Affidavit of Angela Hegarty, MD**

I, Angela Hegarty, MD hereby swear and affirm:

1. I am licensed to practice medicine in New York State. I am a diplomate of the American Board of Psychiatry and Neurology in both Psychiatry and Forensic Psychiatry

2. The following is a brief and abbreviated summary of my observations and opinions regarding the defendant, Mr. José Padilla:

3. I met with Mr. Padilla on five consecutive days from June 26, 2006 through June 30, 2006, and again on September 11 and 12, 2006. To date, I have spent approximately twenty-two hours with the defendant. All the interviews were conducted in the conference room at the Special Housing Unit located at the Federal Detention Center in Miami, Florida. During the interviews the defendant was shackled and manacled, with a belly chain that restricted the movement of his arms.

4. Mr. Padilla was willing to affirm or deny whether he had been subject to interrogation techniques that had been commonly reported in the media. He denied being sexually assaulted or humiliated. He denied being water-boarded with uncharacteristic intensity and insistence. He acknowledged being kept in the dark or with the lights on for very long periods of time, being shackled and left alone for long periods of time, of being kept in a cold environment for long periods of time, and above all, of being certain he would die in the brig.

5. In particular, he described periods of sleep deprivation caused by the discomfort of lying on a steel bun without a mattress and with the lights on. Also, the slamming of adjacent cell doors at regular intervals prevented his sleep. Mr. Padilla recalled asking for medication for pain and being told by staff they were not authorized to give him anything for his pain. He also described an incident during which he felt intense pressure on his chest "like two hundred pounds" and was convinced he was going to die from that intense pressure.

6. During my interview, Mr. Padilla briefly conveyed obviously painful recollections of being taken out of the cell to a "recreation" cage. Mr. Padilla recalled how he begged his guards not to take him out and put him in the cage. He would not say what went on in the cage or why it upset him so. Mr. Padilla also made it clear to me that he had not told me everything that had been done to him in the brig and that he was unwilling to do so.

7. Mr. Padilla told me that he had no way of keeping track of time while in the brig. He was the sole occupant on the lower level of the brig. There were long periods of darkness and long periods of bright artificial light. There were no clocks or calendars. He had no access of any kind to the outside world. He was unable to put

**EXHIBIT B**

opposite is true: he strives to present himself as stress and symptom free both on interview and on testing. He was very reluctant to allow a psychiatric evaluation in the first place and is equally reluctant to allow evidence of psychiatric impairment to be brought forward. He is terrified that anyone will consider him mentally ill or crazy. A diagnosis of malingering is not appropriate in this case.

16. Mr. Padilla has not been able to assist his attorneys in reviewing the evidence provided by the government in discovery. He is also unable to answer questions in sufficient detail so as to be of use to his attorneys in his defense. When asked for further information, beyond what has already been given he insists on some occasions that the issues in question "have been established" and no further information is required. On other occasions he insists he has already answered the questions. He is unable to watch video recordings of his interrogation. He is unable to view transcripts of taped phone conversations to be used against him at trial. When approached by his attorneys, he begs them, "Please, please, please" not to have to discuss his case. Efforts to desensitize him to the distress of confronting what happened to him – talking about the tasks at hand in a gradual way without threatening exposure, over time – have utterly failed. Even after sixteen hours of work with undersigned during which he revealed some details of what had happened to him, he was still unable even to consider watching the tapes or reviewing the evidence against him.

17. Mr. Padilla tends to identify with the interests of the government more than his own interests at times. For example, after defense counsel cross-examined FBI agents regarding their interrogation of the defendant in Chicago establishing inconsistencies and aggressive behavior, Mr. Padilla's reaction was concern that the agents could get in trouble. Instead of being pleased with his attorney's efforts to get out the truth, he was more concerned about the effect it could have upon the agents, or the possibility that these efforts on his behalf might result in his return to the brig. This is a common response in individuals who have been traumatized. One way of coping has been traditionally labeled as "identification with the aggressor." In its most extreme form identification with the aggressor leads to Stockholm Syndrome – a condition first described in hostages who identify completely with the aims, motives and perspectives of the hostage takers to the point of joining their cause. Identification with the aggressor works for people in traumatic situations because it is the aggressor who has all the power and the more they meet the aggressor's needs and identify with the aggressor's cause, the safer they are. When such individuals orient themselves with the interests and perspective of the aggressor, anxiety is alleviated. The relief from anxiety is re-enforcing and over time the identification will increase in intensity. Attempts to see things from other

still in an unhealthy degree of isolation remains psychologically unsafe for him and only serves to compound the psychological damage that has already been done.

12. These traumatic events are persistently re-experienced in by recurrent and intrusive distressing recollections of the events, including images, thoughts and or perceptions that are necessary for his ability to assist his counsel with his defense. When these intrusive recollections are triggered by turns of phrase or intonation during questioning, Mr. Padilla feels as though the traumatic event is recurring again. In other words, for Mr. Padilla the questioning necessary for the development of his defense dredges up the same emotions he experience during his interrogations at the Brig. Mr. Padilla has demonstrated intense physiological distress and evidenced physiological reactivity on exposure to cues that symbolized or resembled aspects of the traumatic events he has experienced. During questioning about his experiences, his facial tics became prominent and increased in frequency and intensity. He also became diaphoretic at times and appeared restless and anxious.

13. Mr. Padilla makes persistent efforts to avoid stimuli associated with the trauma of his detention and interrogation and demonstrates a general numbing of responsiveness, including efforts to avoid thoughts, feelings and conversations associated with the trauma. For instance he refuses to watch the videos of his interrogation and he refuses to answer questions pertaining to aspects of the evidence in his case. He has large memory gaps related to his detention and he is unable to place events in chronological order or say how long different situations persisted. He also fails to recall important aspects of the trauma. There is evidence of markedly diminished interest in significant activities. He feels detached not only from the man he was and the life he had, but from others as well, and there is a restricted range of affect. Mr. Padilla periodically concludes that no matter what, win or loose, he will be going back to the brig, where he will die, and as such, has a sense of a foreshortened future.

14. There is clear evidence of increased arousal as indicated by the defendant's exaggerated startle response, his periodic hypervigilance, and his difficulties concentrating. In addition to the symptoms of posttraumatic stress disorder, Mr. Padilla also demonstrates the kind of disorientation, confused thinking, paranoid ideation and inability to trust others outside the closed environment characteristic of individuals who have been isolated for a long time.

15. The issue of malingering has to be considered in any evaluation involving legal proceedings. The definition of malingering is the deliberate feigning or exaggeration of psychiatric symptoms for a specific conscious purpose. Such individuals present themselves as more impaired than they actually are. In Mr. Padilla's case the

events in chronological order for me. He was clear that early on, for what seemed like months, there was a "terrible time," although he could not be more specific as to what constituted that "terrible time."

8. Though the importance of reviewing evidence has been explained to Mr. Padilla repeatedly by both his attorneys and myself, he has been unable to either read transcripts or listen to tapes of intercepted conversations that the government intends to use as evidence in his trial. When exhorted to do so, he pleads with his attorneys not to "make him" look at or listen to the material.

9. Mr. Padilla makes a number of references to hallucinations and strange experiences during his detention. He is terrified of appearing or being seen as "crazy." He recalled being told by one of his interrogators that if he were to relate a particular experience to someone "on the outside," they would see him as "crazy." He was completely unable to describe those experiences to me. He also made a number of references to drugs or truth serums in the course of his interview and how it affected him. At times Mr. Padilla became intensely anxious and expressed fear of losing his mind on recalling his detention.

10. Mr. Padilla meets full diagnostic criteria for a diagnosis of Post Traumatic Stress Disorder, according to the Diagnostic and Statistical Manual of the American Psychiatric Association Fourth Edition, Text Revision (DSM 4 TR).

11. He has endured a traumatic event that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others and his response involved intense fear and helplessness. The use of prolonged isolation along with tactics designed to have an individual reveal facts they otherwise might not wish to reveal, as well as the fostering of dependence on interrogators not only creates the conditions in which individuals might reveal important information, but also the conditions that induce intense fear, feelings of helplessness and loss of control characteristic of the traumatic experience. Sleep deprivation, physiological stress, and repeated questioning only exacerbate the traumatic nature of the experience. Mr. Padilla believed he was going to die on a number of occasions during his detention. He believed his family would be harmed if he did not comply. He learned that no matter whether he was cooperative, or whether he pleaded with his captors, he was utterly helpless and absolutely dependent on them for everything. He believed and still believes they have the ultimate power to decide what happens in his life, his case, and whether he is released or ultimately is returned to the brig. These traumatic events were exacerbated by their duration. Additionally, Mr. Padilla's current environment wherein he is

perspectives leads to increasing anxiety. Such identification also aids those seeking to elicit information from detainees: a detainee who is entirely identified with the aims of interrogators is going to try to please them any way possible, up to and including providing information they know is false, in order to curry favor with the captors.

18. Victims of intense traumatic stress experience intense distress in recalling the triggers of the traumatic events. It is as though the recollection of the events made the trauma were recurring. This stimulus triggers a desire to avoid the pain, and hence an individual's inability to engage in discussions about the traumatic events or deal with anything that resurrects the trauma or triggers symptoms. Mr. Padilla's behavior is symptomatic of one who is experience such traumatic recall.

19. Within a reasonable degree of medical and psychiatric certainty, it is my opinion that as the result of his experiences during his detention and interrogation, Mr. Padilla does not appreciate the nature and consequences of the proceedings against him, is unable to render assistance or counsel, and has impairments in reasoning as the result of a mental illness, i.e., post traumatic stress disorder, complicated by the neuropsychiatric effects of prolonged isolation and as such lacks the capacity to assist in his own defense

Further Affiant Sayth Naught

Angela Hegarty  
Dr. Angela Hegarty

The foregoing instrument was sworn to and before me this 30th day of November, 2006 by Angela Hegarty

Personally known ( x )

Produced identification (x)

Dennis Zampani

09/25/2010

My commission expires:

Notary Public  
State of New York  
County of SUFFOLK

Dennis Zampani  
Notary Public, State of New York  
No. 01ZA6153036  
Qualified in Suffolk County  
Commission Expires 09 / 25 / 2010

**Stuart Grassian, M.D.**

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Chestnut Hill, Mass. 02467-3976  
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**Overview: Neuropsychiatric Effects of Solitary Confinement**

My observations and conclusions regarding the psychiatric effects of solitary confinement have been cited in a number of federal court decisions, for example: Davenport v. DeRobertis, 844 F.2d 1310, and Madrid v. Gomez, 889F.Supp.1146. I prepared a written declaration for Madrid describing the medical literature and historical experience concerning the psychiatric effects of solitary confinement and of other conditions of restricted environmental and social stimulation. I have prepared the general (non-institution specific) and non-redacted (non-inmate specific) portions of that declaration into a general Statement, which I have entitled "Psychiatric Effects of Solitary Confinement"; a copy of this statement is attached hereto. It describes the extensive body of literature, including clinical and experimental literature, regarding the effects of decreased environmental and social stimulation, as well as specifically, observations concerning the effects of solitary confinement on prisoners. I offer here a general overview of the issue:

It has long been known that severe restriction of environmental and social stimulation has a profoundly deleterious effect on mental functioning; this issue has, for example, been a major concern for many groups of patients including, for example, patients in intensive care units, spinal patients immobilized by the need for prolonged traction, and patients with impairment of their sensory apparatus (such as eye-patched or hearing impaired patients). This issue has also been a very significant concern in military situations and in exploration - polar and submarine expeditions, and in preparations for space travel.

In regard to solitary confinement, the United States was actually the world leader in introducing prolonged incarceration - and solitary confinement - as a means of dealing with criminal behavior; the "penitentiary system" began in the United States in the early 19th century, a product of a spirit of great social optimism about the possibility of rehabilitation of individuals with socially deviant behavior. This system, originally embodied as the "Philadelphia System", involved almost an exclusive reliance upon solitary confinement as a means of incarceration, and also became the predominant mode of incarceration - both for post conviction and also for pretrial detainees - in the several European prison systems which emulated the American model.

The results were catastrophic. The incidence of mental disturbances among prisoners so detained, and the severity of such disturbances, was so great that the system fell into disfavor and was ultimately abandoned. During this process, a major body of clinical literature developed which documented the psychiatric disturbances created by such stringent conditions of confinement. The paradigmatic disturbance was an agitated confusional state which, in more severe cases, had the characteristics of a florid delirium, characterized by severe confusional, paranoid and hallucinatory features, and also by intense agitation and random, impulsive violence - often self-directed.

**EXHIBIT C**

The psychiatric harm caused by solitary confinement became exceedingly apparent. Indeed, by 1890, in In re Medley, 10 S.Ct. 384, the United States Supreme Court explicitly recognized the massive psychiatric harm caused by solitary confinement: "This matter of solitary confinement is not ... a mere unimportant regulation as to the safe-keeping of the prisoner .... [E]xperience [with the penitentiary system of solitary confinement]demonstrated that there were serious objections to it. A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community." 10 S.Ct. at 386.

The consequences of the Supreme Court's holding were quite dramatic for Mr. Medley. Mr. Medley had been convicted of having murdered his wife. Under the Colorado statute in force at the time of the murder, he would have been executed after about one additional month of incarceration in the county jail. But in the interim between Mr. Medley's crime and his trial, the Colorado legislature had passed a new statute which called for the convicted murderer to be, instead, incarcerated in solitary confinement in the State Prison during the month prior to his execution. Unhappily, simultaneously with the passage of the new law, the legislature rescinded the older law, without allowing for a bridging clause which would have allowed for Mr. Medley's sentencing under the older statute.

Mr. Medley appealed his sentencing under the new statute, arguing that punishment under this new law was so substantially more burdensome than punishment under the old law, as to render its application to him *ex post facto*. The Supreme Court agreed with him, even though it simultaneously recognized that if Mr. Medley was not sentenced under the new law, he could not be sentenced at all. Despite this, the Court held that this additional punishment of one month of solitary confinement was simply too egregious to ignore; the Court declared Mr. Medley a free man, and ordered his release from prison.

Dramatic concerns about the profound psychiatric effects of solitary confinement have continued into the twentieth century, both in the medical literature, and in the news. The alarm raised about the "brainwashing" of political prisoners of the Soviet Union and of Communist China - and especially of American prisoners of war during the Korean War - gave rise to a major body of medical and scientific literature concerning the effects of sensory deprivation and social isolation, including a substantial body of experimental research.

This literature, as well as my own observations, has demonstrated that, deprived of a sufficient level of environmental and social stimulation, individuals will soon become incapable of maintaining an adequate state of alertness and attention to the environment. Indeed, even a few days of solitary confinement will predictably shift the electroencephalogram (EEG) pattern towards an abnormal pattern characteristic of stupor and delirium.

This fact is, indeed, not surprising. Most individuals have at one time or another experienced, at least briefly, the effects of intense monotony and inadequate environmental stimulation. After even a relatively brief period of time in such a situation, an individual is likely to descend into a mental torpor - a "fog" - in which alertness, attention and concentration all become impaired. In such a state, after a time, the individual becomes increasingly incapable of processing external stimuli, and often becomes "hyperresponsive" to such stimulation; for

example, a sudden noise or the flashing of a light jars the individual from his stupor, and becomes intensely unpleasant. Over time, the very absence of stimulation causes whatever stimulation is available to become noxious and irritating; individuals in such a stupor tend to avoid any stimulation, and progressively to withdraw into themselves and their own mental fog.

An adequate state of responsiveness to the environment requires both the ability to achieve and maintain an attentional set - to focus attention - and the ability to shift attention. The impairment of alertness and concentration in solitary confinement leads to two related abnormalities

The inability to focus, to achieve and maintain attention, is experienced as a kind of dissociative stupor - a mental "fog" in which the individual cannot focus attention, cannot, for example, grasp or recall when he attempts to read or to think.

The inability to shift attention results in a kind of "tunnel vision" in which the individual's attention becomes stuck - almost always on something intensely unpleasant - and in which he cannot stop thinking about that matter; instead, he becomes obsessively fixated upon it. These obsessional preoccupations are especially troubling. Individuals in solitary easily become preoccupied with some thought, some perceived slight or irritation, some sound or smell coming from a neighboring cell, or - perhaps most commonly, by some bodily sensation - tortured by it, unable to stop dwelling on it. I have examined countless individuals in solitary confinement who have become obsessively preoccupied with some minor, almost imperceptible bodily sensation, a sensation which grows over time into a worry, and finally into an all-consuming, life-threatening illness.

In solitary confinement, ordinary stimuli become intensely unpleasant, and small irritations become maddening. Individuals in such confinement brood upon normally unimportant stimuli, and minor irritations become the focus of increasing agitation and paranoia.

Individuals experiencing such environmental restriction find it difficult to maintain a normal pattern of daytime alertness and nighttime sleep. They often find themselves during the day incapable of resisting their bed - incapable of resisting the paralyzing effect of their stupor - and yet incapable at night of any restful sleep. The lack of meaningful activity is far compounded by the effect of continual exposure to artificial light, and diminished opportunity to experience natural daylight. And the individuals' difficulty in maintaining a normal day-night sleep cycle is often far worsened by the constant intrusions on nighttime dark and quiet - steel doors slamming shut, flashlights shining in their face, and so forth.

There is, of course, substantial differences in the effects of solitary confinement upon different individuals. Those most severely affected are generally individuals with evidence of subtle neurological or attention deficit disorder, or with some other vulnerability; this includes, for example, individuals with psychopathic personality disorders, who appear to experience a chronic underarousal of their central nervous system, leading them to have a pathological need for external stimulation. When such particularly vulnerable individuals are exposed to conditions of solitary confinement, they are especially likely to descend into states of florid psychotic delirium, marked by severe hallucinatory confusion, disorientation, and even incoherence, and by intense agitation and paranoia; these psychotic disturbances often have a dissociative character, and individuals so affected often do not recall events which occurred

during the course of the confusional psychosis. Other individuals - generally, individuals with more stable personalities and greater ability to modulate their emotional expression and behavior, and individuals with stronger cognitive functioning - are less severely affected. However, all of these individuals will still experience a degree of stupor, difficulties with thinking and concentration, obsessional thinking, agitation, irritability and difficulty tolerating external stimuli (especially noxious stimuli).

EEG studies have corroborated these findings. Such studies, using volunteers, have demonstrated that even after a few days of solitary confinement, the EEG will characteristically shift in the direction of stupor and delirium. Moreover, one study from the Balkan conflict demonstrated that even after release from solitary confinement, there are continuing EEG abnormalities; the EEG shows excessive spike reaction to environmental (in that case, visual) stimulation. In other words, the "hyperresponsivity to external stimuli" which is found clinically in individuals exposed to solitary confinement, is also seen in EEG recordings, and this disturbance continues for some unknown period of time after release from solitary.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 04-60001-CR-COOKE(s)(s)(s)(s)(s)

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE PADILLA,

Defendant.

\_\_\_\_\_ /

**Declaration of Andrew G. Patel**

Pursuant to 28 U.S.C. § 1746, I, Andrew G. Patel, Esq., hereby declare that, to the best of my knowledge, information, and belief, and under penalty of perjury, the following is true and correct:

1. I am an attorney admitted to practice in the courts of New York State. I was admitted to practice before this court *pro hac vice* by order of United States District Judge Marcia Cooke on January 24, 2006. DE 177. I am also admitted to practice in the United States Supreme Court, the United States Courts of Appeals for the Second and Fourth Circuits, and the United States District Courts for the Southern and Eastern District of New York. My office is located at 111 Broadway, New York, NY 10006.
2. I have served on the Criminal Justice Act panel for the Southern District of New York for more than fifteen years.

3. On or about June 11, 2002, I was assigned to represent Jose Padilla with my co-counsel, Donna R. Newman, by Judge Michael B. Mukasey, then-Chief Judge of the United States District Court for the Southern District of New York.

4. On June 9, 2002, the President of the United States declared Mr. Padilla an enemy combatant and ordered the Secretary of Defense to take custody of Mr. Padilla. Mr. Padilla was transferred to the Naval Consolidated Brig at the Naval Weapons Station in Charleston, South Carolina (hereinafter "Brig").

5. After the decision by United States Supreme Court, my appointment as counsel for Mr. Padilla pursuant to the Criminal Justice Act was terminated. Nevertheless, I continued to represent Mr. Padilla, *pro bono*, in the United States District Court for the District of South Carolina as well as in all subsequent appeals.

6. After receiving the required security clearance, Ms. Newman and I were first permitted to visit Mr. Padilla on or about March 3, 2004 at the Brig.

7. After that initial visit, I met with Mr. Padilla at the Brig on approximately ten or eleven additional occasions. For all but approximately three of those visits, I met with Mr. Padilla individually in a room that I was informed was unmonitored. On the other visits, I was accompanied by co-counsel.

8. Since March 2004, I have had numerous conversations with members of the Brig staff, both military and civilian. I have also had conversations with officers of the Joint Forces Command Judge Advocate General (hereinafter "JFC/JAG").

9. I have also spoken with representatives of the International Committee for the Red Cross (hereinafter "ICRC"). I have been informed that Mr. Padilla was visited at the Brig by

representatives of the ICRC before I was permitted to visit him. It is my understanding that the representative of the ICRC requested that Mr. Padilla be provided with a clock to enable Mr. Padilla to be oriented to the time of day. Mr. Padilla was not provided with access to a clock while he was incarcerated in the Brig.

10. I have been informed that during the early period of Mr. Padilla's incarceration in the Brig he was regularly visited by a Muslim Chaplin or Imam. Subsequently, the visits from the Imam ceased.

11. Mr. Padilla was housed in the Brig in a unit with ten cells, five on each of two tiers. Mr. Padilla was the only person housed in that unit. I have been advised that his cell was electronically monitored and that Mr. Padilla had no contact with other human beings.

12. The cell had windows that were blocked so that no natural light could enter the cell. The cell did not have a mirror. Mr. Padilla was fed through a slot in the door. The cell had a steel platform, which served as a bed. Mr. Padilla had no control over the level of artificial light in the cell.

13. When Mr. Padilla first arrived at the, Brig his cell was equipped with bedding that included a foam mattress and a pillow. He was provided a copy of the Qu'ran.

14. I have learned that Mr. Padilla's Qu'ran was taken away as part of an interrogation plan approved by the Joint Forces Command. Under this interrogation plan, Mr. Padilla's mattress and pillow were also removed. Mr. Padilla was required to sleep on the steel platform. Mr. Padilla was sometimes given cold meals as part this interrogation plan.

15. After I was permitted to meet with Mr. Padilla, I was informed by officers of the JFC/JAG that Mr. Padilla's family could write to him at a specific address. Mr. Padilla informed

me that he received a facsimile of a letter that he was told had been written by his mother. Mr. Padilla said that he could not recognize the handwriting as his mother's and that he believed the letter to be a forgery.

16. I contacted Mr. Padilla's mother and asked her to write a letter to her son and to mail it to my office. I received a letter from Mr. Padilla's mother and showed it to him the next time we met at the Brig. Mr. Padilla was also dubious of the authenticity of that letter.

17. Prior to March 2004, when I was permitted to meet with Mr. Padilla, he was not permitted to receive or send correspondence to or from anyone. He was permitted to send a brief note to his mother through the ICRC. After I was able to meet with Mr. Padilla, he was permitted to receive mail from his counsel but not from any other source. When I went to the Brig, the staff would give me mail that had been sent to Mr. Padilla that they had not delivered to him. This mail included copies of notices and orders from the United States District Court for the District of South Carolina.

18. Mr. Padilla has informed me that on at least on one occasion while he was incarcerated in the Brig, he felt that he was having a heart attack and that during the attack he could neither breathe nor move.

19. On another occasion, Mr. Padilla informed me that there was a terrible odor in his cell. Mr. Padilla informed me that he believed that this stench was caused by the guards pumping a noxious gas into his cell. Mr. Padilla informed me and co-counsel that while he was detained in the Brig there were extended periods of time when he was deprived of sleep or kept in darkness. Mr. Padilla also informed us that he was given a "truth serum" which made him feel like he had been drugged.

20. Mr. Padilla has informed me that, on at least one occasion, he coughed up blood while he was incarcerated in the Brig.

21. On one of my visits to Mr. Padilla, I observed an open wound on the back of one of his hands. During our meeting Mr. Padilla was scratching the wound without appearing to be aware of what he was doing. I advised both the Brig staff and the JFC/JAG of my concern about this wound and I was assured that Mr. Padilla would receive prompt medical attention.

22. On my next visit, the wound appeared to have been treated. On a subsequent visit to Mr. Padilla, the wound was healed, however Mr. Padilla again appeared to be unconsciously scratching the back of his hand, from time to time, during our meeting.

23. While at the Brig, Mr. Padilla has repeatedly mentioned a civilian who came to see him and who asked him questions. He eventually described that civilian as the person I believe to be Mr. Sandy Seymour.

24. I have spoken with Mr. Seymour on several occasions. Mr. Seymour informed me that he was the Technical Director of the Brig and that he had over 25 years of experience in the operation of prisons. Mr. Seymour informed me of his concerns about the effects of isolation on Mr. Padilla and the limits of his authority to address those concerns.

25. Specifically, I was told by members to the Brig staff that Mr. Padilla's temperament was so docile and inactive that his behavior was like that of "a piece of furniture."

26. I was also told that the Brig staff was concerned about the damage that could occur from the extended isolation that Mr. Padilla experienced in the Brig. To address this concern, a member of the Brig staff requested authorization for Mr. Padilla to have meals with another detainee. I was informed that this request by the Brig staff to ameliorate the effect of long-term

isolation was denied.

27. During one of my meetings with Mr. Padilla at the Brig, I asked him a question concerning a simple fact based on an event that had happened prior to his arrest. In observing Mr. Padilla's physical reaction to this question, I noted that his posture changed from relaxed to bolt upright in his chair. He began to blink his eyes and he appeared to have goose bumps on his arms and his neck. Mr. Padilla's reaction to my innocuous question was the same reaction that I would have expected if he had been stuck by a cattle prod.

28. Mr. Padilla was unable to answer that question then, and he has continued to be unable to answer similar questions today.

29. Mr. Padilla's inability to answer questions about what happened to him prior to his arrest does not appear to be based on a refusal to cooperate with counsel. Mr. Padilla will identify a document or a photograph but he is unable to engage in a discussion about the physical object and will, alternatively, repeat that this matter has already been established or that his counsel are repeating questions that he has already answered during his previous detention. During this questioning he often exhibits facial tics, unusual eye movements, and contortions of his body. The contortions are particularly poignant since he is usually manacled and bound by a belly chain when he has meetings with counsel.

30. Mr. Padilla retains the belief that he will be returned to the Brig if he discusses events that occurred there.

31. I have represented Mr. Padilla for over four years. I have spent many hours with him since we first met in March 2004. He has been provided with copies of numerous legal documents, naming myself as his counsel, filed in seven different federal courts. Mr. Padilla has

reviewed numerous transcripts of arguments that I made on his behalf in many of those courts. More recently, Mr. Padilla has had the opportunity to observe co-counsel and myself argue on his behalf before this Court. Additionally, Mr. Padilla has spoken with his mother about the work his attorneys have done on his behalf. Nevertheless, as of the date of this affirmation, Mr. Padilla remains unsure if I and the other attorneys working on his case are actually his attorney or another component of the government's interrogation scheme.

Dated: Miami, Florida  
December 1, 2006

A handwritten signature in black ink, appearing to read 'Andrew G. Patel', with a long horizontal flourish extending to the right.

Andrew G. Patel, Esq.











