

EXHIBIT B

DECLARATION OF CLIVE A. STAFFORD SMITH

COMES NOW CLIVE A. STAFFORD SMITH, ESQ. and hereby declares as follows:

1. I am the Legal Director of Reprieve, a human rights organization based in the United Kingdom. I am a member in good standing of bars of Georgia, Louisiana and Mississippi, as well as of the United States Supreme Court and various among the lower federal courts.
2. My clients currently or formerly detained in Guantánamo Bay Naval Station, to whom I provide habeas representation, include Omar Deghayes, Shaker Aamer, Bisher Al Rawi, Jamil El Banna, Binyam Mohammed, Usama Hasan Abu Kabir, Jamal Abdullah Kiyemba, Ahmed Abdel Aziz, Sami Muhyedin al Hajj, and Mohammed El Gharani. All of these clients seek to act as Next Friends for the Petitioners in this matter or have provided evidence of the Petitioners' desire for legal counsel to represent them directly.
3. I first became involved in the representation (or attempted representation) of the prisoners in Guantanamo Bay in early 2002, because I believed strongly that this nation fails in its most profound promise when it holds prisoners beyond the rule of law.
4. In November 2004, I was first able to visit two clients in Guantanamo Bay. This opened up a new avenue for helping the prisoners get access to counsel after other efforts to help the prisoners to secure legal representation had failed or proved impractical, as described below.
5. My clients consistently told me that other prisoners desperately wanted counsel and asked me how they could help. My initial idea was to write out a form that my clients could take back to their cells and use as standard form for other prisoners. If other prisoners wanted me to help them, they could fill out the form and send it to me. However, this proved ineffective for various reasons. One was the unacceptable legal mail system from Guantanamo Bay. I have my clients keep logs of the letters that they send me, and the ones they receive from me. The letters that my clients send to me either do not get through to me at all, or take an unacceptably long time arriving. Via this method, I received four signed requests for counsel on May 29, 2005, five months after they had been sent.
6. By early 2005, there were still few prisoners for whom there were authorizations to file a petition, although I talked to my clients and learned that many were desperate to secure help. We had to search for a more reasonable way to deliver this assistance.
7. One of my clients showed me the English-language version of the Department of Defense's Enemy Combatant Notice (ECN) that had been distributed to detainees. It expressly stated that a prisoner could ask "a *friend* or family member or a lawyer to file such a petition with the court." This gave us the idea of the way in which those of my clients could act as Next Friends for the other prisoners, thereby helping the other prisoners get the legal assistance they so desperately wanted.

8. I discussed this document with my clients named in ¶ 2, and they have understood this to mean that they could file a request for legal assistance for their “friends” in Guantanamo Bay who expressed their desire to challenge the legality of their detention with legal assistance.
9. During these discussions, I also learned that many prisoners would rather have a fellow prisoner as “Next Friend” than a family member to prevent putting their families at risk in their home countries. For example, one of my British resident clients, Jamal Kiyemba, has stated in an unclassified document that “[t]he prisoners want to know why they have to have a family member contacted on this. It’s personal. They think this is just a way of dragging their families into this process, putting them at risk. This is particularly true when the family is in a repressive society back home. What is the point of having a family member involved?”
10. My clients seeking to act as Next Friends also share a strong community of interest with the Petitioners, perhaps as strong as or stronger than that of the family members acting as Next Friends. For example, Omar Deghayes is a long term resident of the United Kingdom with some legal training and is one of my clients who is acting as a Next Friend for other prisoners. He has spent more than three years of wrongful imprisonment.
11. During his incarceration in U.S. custody, Mr. Deghayes has become close to several other prisoners and acted as their Next Friend to secure legal representation. Because he speaks English and Arabic, has legal training, and possesses a sincere commitment to the prisoners’ best interests, these men entrusted Mr. Deghayes to contact me to secure legal representation on their behalf.
12. Mr. Deghayes is sometimes moved, and sometimes placed in isolation, something that is out of his control but entirely in the control of Respondents, making it more difficult for him to provide additional information should I ask him to do so.
13. As result of Mr. Deghayes’ efforts as a Next Friend, and the efforts of my other clients acting as Next Friends, numerous prisoners in Guantanamo now have legal counsel who would otherwise have gone unrepresented for perhaps years.
14. In each instance when I secured from my clients a Next Friend authorization or a Notification of another prisoner’s desire for counsel, I discussed with them the meaning and nature of a “Next Friend.” They understood that this meant that they were acting on behalf of each of the prisoners to help challenge the legality of their detention.
15. In addition, I specifically confirmed in each instance that it was my client’s understand that the prisoner was seeking legal assistance to challenge the legality of his detention, but had not been able to communicate this because of the obstacles the government creates to the prisoner’s access to families, lawyers, and the court.
16. The government has constructed substantial barriers to the prisoners’ direct access to the court and legal counsel. Between December 2001 and September 2004, the prisoners did not have any means to communicate directly with lawyers or the court. Thus, the only

means available to provide legal representation to the prisoners was through their families in foreign countries.

17. The problems for families contacting U.S. lawyers are profound. First, the families have to know and believe that free help is available, and there is no way that we can broadcast to families all over the world that they may contact us. Second, they must have a means to contact us, and the internet is not readily available to many people in a country such as Yemen. Third, they need the means to overcome language barriers to communicate with U.S. lawyers. Fourth, when I have traveled to foreign countries to try to facilitate this process it has been expensive and very difficult – there have been prisoners from fifty countries in Guantanamo Bay, many of which are not easy to visit. Finally, some families do not know that their relative is imprisoned in Guantanamo because the U.S. government has refused to release the names of the men it holds captive.
18. As described above, many barriers were overcome when prisoners with legal counsel learned that a “friend” could file a petition on a prisoner’s behalf.
19. Based on this, various of my clients have wanted to act as Next Friends for other prisoners with whom they have become close to while in the prison or have provided me with Notification of another prisoner’s desire for counsel. Authorizations and Notifications secured in this manner are attached to this declaration as Exhibits 1 through 24, and demonstrate in each instance that the named prisoner wishes to have legal proceedings brought on his behalf.

Pursuant to 28 U.S.C. § 1746 (1), I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 12th day of December, 2005.



CLIVE A. STAFFORD SMITH