

v.

MUSTAFA BIN-AHMAD AL-HAWSAWI

(October 26, 2008)

1. I, Scott L. Fenstermaker, Esq., an attorney at law and retained counsel of Mustafa Bin-Ahmad Al-Hawsawi, declares under the penalties of perjury, the following:

2. I received two letters from Mustafa Bin-Ahmad Al-Hawsawi.

3. I received the first letter, dated August 24, 2007, in the late Summer or early Fall of 2007.

4. I received the second letter, dated May 2, 2008, on September 19, 2008.

5. In these letters, Mr. Al-Hawsawi retained me as his counsel.

6. I notified the Department of Defense in either December of 2007 or January of 2008, of my desire to travel to Guantánamo Bay to visit with my clients detained there, including Mr. Al-Hawsawi.

7. On January 11, 2008, I was notified by Robert M. Loeb, Esq., an attorney with the Department of Justice, that I could not travel to Guantánamo Bay to visit with my clients, including Mr. Al-Hawsawi.


8. On or about September 19, 2008, I filed a notice of appearance with the Office of the Trial Judiciary of the Office of the Military Commissions, and sent a courtesy copy of this notice of appearance to the appropriate parties, including the military judge presiding over Mr. Al-Hawsawi's matter.

9. To my knowledge, the Office of Military Commissions has never acted on my notice of appearance.

10. On at least three occasions, Major Jon Jackson, Mr. Al-Hawsawi's military defense counsel, informed me that I do not represent Mr. Al-Hawsawi. When I asked Major Jackson to memorialize his concerns in writing, he responded with expletives. The only written communication I received from Major Jackson after this communication consisted of Major Jackson denying my assertion that he responded with expletives to my request that he write to me regarding his concerns. Major Jackson has never provided written corroboration for his claims that I do not represent Mr. Al-Hawsawi.

11. On July 1, 2008, I received an e-mail from a lawyer at the Department of Justice who informed me that I was no longer permitted to send privileged mail to detainees at Guantánamo Bay. Subsequent to receiving the Justice Department's July 1, 2008 e-mail, I have had 41 pieces of mail sent to detainees at Guantánamo Bay rejected and returned to me by the Office of the Staff Judge Advocate. Among the 41 pieces of mail returned from Guantánamo Bay was at least one piece of non-privileged mail.

12. I swear under the penalties of perjury that the above is true to the best of my knowledge.


Scott L. Fenstermaker, Esq.