

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

<p>IN RE:</p>)	
)	
<p>GUANTANAMO BAY DETAINEE LITIGATION</p> <hr/>)	<p>Misc. No. 08-442 (TFH)</p>
)	
<p>ABDUL RAHMAN AL QYATI, <i>et al.</i>,</p>)	<p>Civil Action No. 08-CV-2019 (RBW)</p>
<p>Petitioners,</p>)	
<p>v.</p>)	
<p>BARACK H. OBAMA, <i>et al.</i>,</p>)	
<p>Respondents.</p> <hr/>)	

DECLARATION OF DAROLD W. KILLMER

Darold W. Killmer declares as follows pursuant to 28 U.S.C. § 1746:

1. I am an attorney licensed to practice law in the state of Colorado. I am a partner in the law firm of KILLMER, LANE & NEWMAN, LLP and I represent five clients who remain detained at Guantanamo Bay, Cuba after more than six years.

2. Abdul Rahman Umir Al Qyati (ISN 461) and Saad Masir Mukbl Al Azani (ISN 575) have filed this Petition for Habeas Corpus in the United States District Court for the District of Columbia. Doc. 1, Civil Action No. 08-cv-2019 (RBW). I also represent three other detainees who are Petitioners included in *Anam, et al. v. Obama, et al.*, Civil Action No. 04-cv-1194 (HHK) and also consolidated under Miscellaneous Number 08-mc-442 (TFH). Each of these three clients in the *Anam* petition has provided direct authorization for their representation, which have been filed with the court.

3. As previously indicated in this Petition for Habeas Corpus, Doc. 1-2, Civil Action

No. 08-cv-2019 (RBW), KILLMER, LANE & NEWMAN, LLP is authorized to represent Petitioners Al Qyati and Al Azani by valid authorization from a “next friend” pursuant to 28 U.S.C. § 2242. Petitioners’ “next friend” was a fellow detainee knowledgeable about the petitioners’ situation. This authorization provides sufficient authority for us to act on behalf of Mr. Al Qyati and Mr. Al Azani.

4. My partner, Mari Newman, and I have had one meeting with Mr. Al Qyati and one meeting with Mr. Al Azani at Guantanamo Bay in August 2007. During this initial meeting we began to establish rapport and a trusting attorney-client relationship, despite the difficult circumstances under which our meetings occur.

5. By the time we received appropriate security clearances and were allowed to travel to Guantanamo Bay, each detainee had been detained by the military at Guantanamo for over five years without any access whatsoever to the outside world.

6. As laypersons, we could readily observe that this isolation had a profound psychological and emotional impact on Petitioners Al Qyati and Al Azani. We also have basis to believe that Petitioners Al Qyati and Al Azani have been subjected to torture and abuse, in a variety of forms, at the hands of or at the direction of the American military. This has had the effect of making the Petitioners incredibly distrustful both of Americans and of anyone purporting to be their friend or to be acting on their behalf.

7. During our initial meeting with Petitioners, they were deeply reluctant about signing any piece of paper given to them. We have every reason to believe that this reluctance is a product of their psychological, emotional, and in some cases mental or physical, deterioration while they have been imprisoned without charge at Guantanamo. This reluctance is also, we believe, a product of fear of Americans in general after what they have suffered at the hands of

American interrogators. And finally, this reluctance may be due to actions taken by the U.S. military itself to discourage detainees from seeking the assistance of counsel.

8. Upon information and belief, members of the U.S. Armed Forces, or persons working on their behalf, have told detainees not to trust their lawyers.

9. Upon information and belief, members of the U.S. Armed Forces, or persons working on their behalf, have impersonated private attorneys in interrogations of the detainees.

10. Upon information and belief, members of the U.S. Armed Forces, or persons working on their behalf, have told detainees that if they work with attorneys, they will be less likely to be released from their detention at Guantanamo.

11. We view each and all of the above actions to be unconscionable and to be direct and substantial interferences with the attorney-client relationship.

12. In January 2009 we traveled to Guantanamo Bay, Cuba for scheduled meetings with each of our five clients. Upon the scheduled time for our visit with Mr. Al Qyati we were told by the guards at Guantanamo that Mr. Al Qyati did not wish to see us, but that he wanted to tell us "face to face" his reasoning on this issue. When we asked for the opportunity to hear from our client why he did not wish to see us -- as Mr. Al Qyati indicated he was willing and wanted to do -- the guard refused our request. We were not allowed the very "face to face" meeting that our client had requested.

13. Based upon our prior meeting with Mr. Al Qyati it was my clear impression that he was an intelligent and thoughtful man who would not make such a strange and contradictory statement. I believe he was asking to be allowed to speak with us face to face, but the military personnel prevented just such a meeting. I believe that the guards at Guantanamo were preventing our meeting and thus interfering with our ability to obtain direct authorizations for

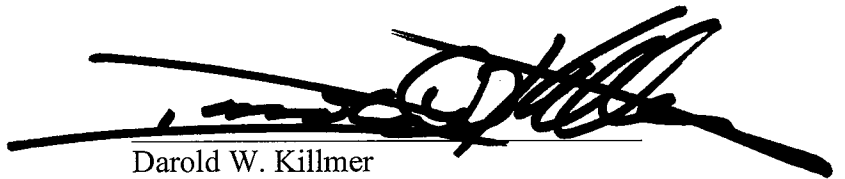
representation.

14. We have only met with Petitioner Al Qyati and Petitioner Al Azani one time each, and were unable to secure a direct authorization from our clients during that first visit. The Protective Order which governs this case, 08-mc-442 (Doc. 409), allows a minimum of two visits with a detainee in order to secure an authorization for representation and further indicates that the parties should cooperate in order to agree upon the number of counsel visits allowed to secure the authorization.

15. My partner, Mari Newman, and I are currently planning another trip from Denver to Guantanamo Bay to meet with our clients and are hopeful to achieve a second visit with Mr. Al Qyati and Mr. Al Azani and obtain at that time direct authorizations for representation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

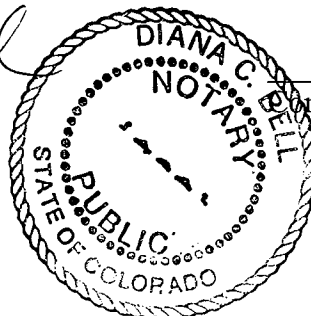
DATED this 13th day of March 2009.


Darold W. Killmer

STATE OF COLORADO)
COUNTY OF Denver) ss.

Subscribed and sworn to before me by Tammy L. Beard this 13th day of March 2009. Witness my hand and official seal:

Diana C Bell
Notary Public



4.20.10
Commission Expires