

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

IN RE:	)	
GUANTANAMO BAY	)	Misc. No. 08-442 (TFH)
DETAINEE LITIGATION	)	
IDRIS AHMED ABDU QADIR IDRIS,	)	
Petitioner,	)	Civil Action No. 09-00745 (RCL)
v.	)	
BARACK OBAMA <i>et al.</i> ,	)	
Respondents.	)	
	)	

**PETITIONER’S MOTION TO COMPEL DISCOVERY REGARDING  
COMPETENCE, KNOWLEDGE, AND VOLUNTARINESS**

Counsel for Petitioner Idris Ahmed Abdu Qadir Idris hereby move this Honorable Court to compel Respondents to disclose all documents and evidence relating to Mr. Idris’s competence, knowledge, and voluntariness, to assist the parties and this Court in evaluating whether Mr. Idris is competent and whether his purported refusals to meet with counsel are knowing and voluntary refusals to pursue his habeas rights.<sup>1</sup>

The circumstances of Mr. Idris’s case, and of counsel’s representation, are set forth in (1) the Motion for Direct Access to Client and (2) Petitioner’s Opposition to Respondents’ Motion to Dismiss, both also filed today. Those details will not be re-stated here, and those two filings are incorporated herein by reference.

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<sup>1</sup> Counsel conferred with Respondents in compliance with Local Civil Rule 7(m), and Respondents do not agree to the requested relief.

As set forth in those filings, there is ample reason for this Court to harbor grave doubts about whether Mr. Idris is competent and whether his purported refusals to meet with counsel are knowing and voluntary refusals to pursue his habeas rights.

Mr. Idris's brother, Abdulqader Idris, states his "belief and understanding that Idris, due to his long-standing detention without proper access to lawyers, doctors, or family, lacks the necessary voluntariness to make decisions on his own behalf." Exhibit A to Petitioner's Opposition to Motion to Dismiss. Abdulqader further states that in his view, "were he not so indisposed, Idris would want me to take legal action on his behalf to secure his release." *Id.* Accordingly, Abdulqader has expressly "authorize[d] the Office of the Federal Public Defender for the Northern District of Ohio, and any attorneys assigned by them, to take legal action on behalf of Idris, including defending him zealously in civil and criminal actions and taking any other legal action in US or international venues that is necessary and appropriate to defend his rights under law." *Id.*

According to the Declaration of Dr. Stuart Grassian, attached as Exhibit B to Petitioner's Opposition to Motion to Dismiss, there is ample reason to believe that the conditions at Guantanamo Bay create a significant risk of psychological damage that would impair Mr. Idris's competence and ability to voluntarily and knowingly forego his rights. Specifically, Dr. Grassian opines:

1. Prolonged solitary confinement causes serious psychiatric harm.
2. The conditions of solitary confinement at Guantánamo are generally more severe than even those in civilian Supermax prisons.
3. Accused enemy combatants and accused Al-Qaeda supporters have undergone marked psychiatric decompensation and severe psychiatric illness as a result of being subjected to confinement and interrogation.

4. The harsh interrogation tactics employed at Guantánamo and elsewhere are likely to result in either massive dependency or else in rage and paranoid mistrust.
5. Guantánamo confinement will very often create great difficulty in establishing a relationship of trust with potential helpers – including both mental health workers and attorneys appointed to represent the detainee.
6. Face-to-face contact is critically important as a means of eliciting trust and cooperation.

Grassian Declaration, Exhibit B.

Likewise, the Report of the Senate Armed Services Committee specifically concludes that the harsh interrogation techniques used at Guantanamo Bay “created a serious risk of physical and psychological harm to detainees.” Senate Armed Services Committee Report, “Inquiry Into the Treatment of Detainees in U.S. Custody,” at xxvi, available at [http://armed-services.senate.gov/Publications/Detainee%20Report%20Final\\_April%202022%202009.pdf](http://armed-services.senate.gov/Publications/Detainee%20Report%20Final_April%202022%202009.pdf). The Report, and other documents cited in the Petitioner’s Opposition to Respondents’ Motion to Dismiss, recount the widespread use of aggressive interrogation techniques, abuse, and torture at Guantanamo Bay.

Thus, there is ample reason for this Court to have concerns about the competence of Mr. Idris, and about his ability to knowingly and voluntarily forego his habeas rights.

Respondents have nonetheless moved to dismiss Mr. Idris’s Petition for a Writ of Habeas Corpus. Before entertaining that motion, this Court must, at a minimum, assure itself of Mr. Idris’s competence and of the voluntariness of his decision.

To assist the Court and the parties in making that assessment, counsel move this Court to order Respondents to disclose:

1. All medical records, including psychiatric and psychological records, pertaining to Mr. Idris;

2. All evidence in whatever form containing suggestions, observations, or conclusions that Mr. Idris may not be competent or may be suffering from some mental or physical disease or defect;
3. All evidence in whatever form indicating that Mr. Idris's capacity for voluntary decision-making has been compromised;
4. All interrogation records, including memoranda of interrogations and all interrogation logs showing the time, place, and circumstances of interrogations;
5. All records showing what forms of interrogation techniques Mr. Idris has been subjected to;
6. All statements from Mr. Idris, or others, suggesting that Mr. Idris may not be competent or may be suffering from a mental or physical disease or defect;
7. All records of the conditions of Mr. Idris's confinement, including but not limited to all records indicting the exact times and durations in which Mr. Idris has been held in conditions of isolation or near-isolation;
8. All records of the manner in which counsel's visit requests were or were not communicated to Mr. Idris, and all records of Mr. Idris's purported refusals.

June 29, 2009

Respectfully submitted,

*/s/Andy Hart*

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