

# Exhibit A

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

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<b>MAHMOAD ABDAAH, et al.,</b>	:	
	:	
<b>Petitioners,</b>	:	
	:	
<b>v.</b>	:	
	:	<b>Civ. No. 04-1254 (HHK)</b>
<b>GEORGE W. BUSH, President of the United States, et al.,</b>	:	
	:	
<b>Respondents.</b>	:	
	:	
-----	X	

**DECLARATION OF MARC D. FALKOFF IN SUPPORT OF EMERGENCY MOTION  
TO COMPEL ACCESS TO MEDICAL RECORDS OF PETITIONER ADNAN FARHAN  
ABDUL LATIF AND FOR OTHER MISCELLANEOUS RELIEF**

I, Marc D. Falkoff, declare:

1. I am an assistant professor of law at Northern Illinois University College of Law in DeKalb, Illinois. I am an attorney and a member of the bars of New York State and the District of Columbia, admitted to practice in the federal courts in the District of Columbia. My home address is 304 West Willow Street, Chicago, Illinois 60614.

2. Along with Covington & Burling, LLP, I represent sixteen Yemeni nationals being detained in Guantánamo Bay by the United States military. The firm filed habeas petitions on behalf of each of these men, including Petitioner Adnan Farhan Abdul Latif (known to the government as “Allal Ab Aljallil Abd Al Rahman Abd”), in the U.S. District Court for the District of Columbia in July 2004.

3. I submit this Declaration in support of Mr. Latif’s Emergency Motion to Compel Access to Medical Records and For Other Miscellaneous Relief because I fear that Mr. Latif may

be close to death and needs the relief requested in the Motion. I have personal knowledge of the following matters and could competently testify thereto.

### **Medical History Before Guantánamo**

4. Since November 2004, I have visited with Mr. Latif approximately twelve separate times. In our first discussions, Mr. Latif explained to me that in 1994 he was the victim of a serious automobile accident in Yemen. He sustained grave injuries in the accident, including a broken skull and perforated eardrum, along with damage to his hearing and vision. He spent the next half-dozen years seeking inexpensive medical treatment in hospitals and clinics in Yemen, Jordan, Pakistan and Afghanistan. Some of his medical records, along with translations, are appended to Mr. Latif's Motion as Exhibit B.

5. The medical document from the Islamic Hospital in Amman, Jordan, states in part, "The patient was admitted under my supervision to the Islamic hospital on 07/09/1994 following a head injury. He was suffering from aches and a headache. A clinical test showed blood concentration and hemorrhage above the left eye, and a hole in the left eardrum. The x-ray test showed a broken skull but no brain injury." Ex. B at 1.

6. The medical document from the Yemen Ministry of Defense's "Military Medical Decision Form," dated July 10, 1995, states in part, "Diagnosis: 1. Loss of sight in the left eye as a result of eye nerve damage. 2. Loss of hearing in the ears." Ex. B at 5.

7. The medical document from the Al-Thawra General Hospital's Medical Report to the Yemen Ministry of Public Health, dated August 18, 1999, states in part, "The above-named is hard of hearing.... Upon examination, a wide circular hole was detected in his left eardrum. The attached audiography revealed a hearing loss in the left ear. We recommend that he return to the

previous center outside for more tests and therapeutic and surgical procedures at his own expense.” Ex. B at 7.

8. Mr. Latif still experiences incessant headaches and balance problems stemming from the injuries he received in the accident.

### **Abusive Treatment at Guantánamo**

9. From my observations of Mr. Latif over the years, I am certain that he has suffered greatly while in confinement at Guantánamo. Physically, Mr. Latif has always been a thin, frail and sickly man whose body does not stand up well to the physical discipline he has experienced at Guantánamo.

10. For instance, when I entered the interview cell to visit with Mr. Latif on April 15, 2006, he presented a woeful sight. One eye was a sickly blue-black color and the other was swollen shut. He had cuts on his head and contusions all over his body. He could barely keep his head up and had great difficulty talking. His head was constantly in pain and he could not chew or swallow.

11. Mr. Latif explained that several days earlier he had been “IRF’d” – meaning he had been subjected to a forcible extraction from his cell by an “Immediate Reaction Force” team – because he had stepped over a line painted on the floor of his cell while he was being served his lunch. During the extraction, the six members of the IRF team, all dressed in body armor, pepper sprayed him and then entered his cell carrying large shields. While Mr. Latif was lying on the floor of his cell, the members of the IRF team kicked him, hit him with their shields, banged his head against the floor, and choked him. Mr. Latif lost consciousness briefly and then was placed onto a stretcher. A doctor felt his chest and administered smelling salts.

12. Mr. Latif was then taken to another Camp in the prison and began serving what was to be a two-month punishment of solitary confinement. According to Mr. Latif, the entire incident was videotaped by military personnel.

### **Psychological Problems**

13. Over the years and after many conversations with Mr. Latif, I have come to believe that he likely suffers from schizophrenia or some other psychological malady. On information and belief, doctors at Guantánamo have long been aware of Mr. Latif's psychological problems and also believe that he suffers from schizophrenia or some similar ailment.

14. I believe that the isolation and physical discipline that Mr. Latif has experienced at Guantánamo have contributed to the decline in his mental health. According to Mr. Latif, after he was extracted from his cell by the IRF team in April 2006 and placed in solitary confinement, he was not fed an adequate quantity of food. He requested more food and, he says, was told by a guard to "eat shit." According to Mr. Latif, this same guard had once threatened to cut his throat and "rape him with his fingers." Mr. Latif proceeded to smear feces on the walls of his cell. According to Mr. Latif, a psychiatrist was summoned and was told by the guard, falsely, that Mr. Latif had ingested his own feces. When the psychiatrist suggested that Mr. Latif take antipsychotic medication, Mr. Latif refused; as he explained to me during our meeting, the psychiatrist "had been in complicit in torture" and he therefore "does not trust him."

15. I do not vouch for the truth of this story. Nonetheless, it is profoundly disturbing, whether the facts as described by Mr. Latif are accurate or not. Either Mr. Latif was subjected to humiliating and degrading treatment following a severe physical beating, or he was manifesting clear signs of mental disturbance.

16. During a later visit to Guantánamo in May 2007, Mr. Latif seemed to engage me in a particularly lucid manner during our meeting. He also seemed less despondent than usual. He stated that he had not been taking any medicine, leading me to suspect that he was somehow being medicated – with anti-psychotics, or anti-depressants, or some other psychotropic drug – without his knowledge.

### **Suicidal Thoughts and Attempts**

17. During the same interview on April 15, 2006, Mr. Latif spoke with me at length about suicide, ruminating about whether he would suffer an eternity in Hell if he killed himself “without realizing it.” Mr. Latif appears to have followed up on these suicidal overtures. My colleagues and I have observed scars on Mr. Latif’s wrists that may be indicative of a suicide attempt. In a recent letter to me, he described waking up in a hospital to be told by a doctor that he had attempted to hang himself.

### **Hunger Striking**

18. Mr. Latif has occasionally engaged in hunger strikes while at Guantánamo. According to Mr. Latif, he began one such strike on February 27, 2007, and continued for almost a full year. I do not know the degree to which he refused food, and suspect that at times his hunger striking was more intense than at others. He has told me, however, that he has been painfully force-fed through a naso-gastric tube, which was inserted while he was lashed – arms, legs and head – to a restraint chair. Respondents have refused my repeated requests for information about Mr. Latif’s hunger strikes and about any force-feeding.

### **Visit of August 14, 2008**

19. I have long been concerned about the physical and mental health of Mr. Latif and over the years have frequently asked Department of Justice lawyers to allow me access to his

medical records. I have been denied the records at every turn. I nonetheless hoped that the military doctors and psychiatrists truly had his best interests at heart, notwithstanding Mr. Latif's obvious distrust of them and news reports about physician complicity in interrogations.

20. When I walked into the interview cell in Camp Iguana to visit with Adnan yesterday, my naïve hopes for the adequacy of the medical care at Guantánamo vanished. Mr. Latif was lying on the floor, with his stomach and chest partly exposed. He was stick thin. His ribs were jutting out and his face was sunken. He looked like a famine victim or a survivor of a concentration camp. I was shaken.

21. My translator and I helped Mr. Latif into his chair. Initially he could only speak in a weak and raspy voice. Tremors ran through his entire body during our morning interview. He would frequently turn to retch and occasionally spit out bile onto the floor.

22. I assumed that his condition was the result of continued hunger striking and asked him about it. Mr. Latif told me in no uncertain terms that he was not hunger striking and that he wanted to eat and drink, but that for the past six weeks he had not been able to keep any food down. He said that he had ceased his hunger strike more than six months ago, in February, and that at the time he stopped hunger striking he weighed about 137 pounds. He also stated that over the next few months he gained weight, and was up to about 145 pounds in June.

23. Mr. Latif explained that in the past six weeks, however, he had been unable to keep any food down, and that at his last weighing he was told that he weighed 107 pounds. Both my translator and I believed that the man sitting in front of us weighed less than 100 pounds.

24. Mr. Latif stated that he had been given a full examination by a doctor about two weeks earlier, and that the diagnosis was that he had a "serious germ." My translator and I believe that the military translator who must have been interpreting for the doctor was unable to

express the diagnosis to Mr. Latif in a competent fashion. Mr. Latif says that the only treatment he was offered was a sedative to help him sleep.

25. If accurate, this course of “treatment” is particularly ironic, since Mr. Latif also reports that, notwithstanding his pitiable condition, he is at present being punished for violating some camp disciplinary rule, and that all of his comfort items – including his mattress and blankets – have been taken from his cell. All he has left, he says, is an isomat. Of course, I do not know firsthand whether what he is saying is true, and I find it almost impossible to believe that one of our soldiers would treat someone in his condition in such an inhumane manner.

26. Mr. Latif also told me that he has occasionally seen blood in his urine and vomit, and that his body is wracked with pain. These problems are in addition to the chronic headaches and vision problems that he has experienced since his automobile accident in 1994.

27. During a break in our meeting, I asked to be taken to the Staff Judge Advocate’s office. There I spoke with an attorney and described Mr. Latif’s condition. I recounted much of what I have discussed in this Declaration, and told him that I felt it imperative to see Mr. Latif’s medical records to determine what exactly was wrong with him. I explained that I thought that Mr. Latif might have some kind of cancer, or perhaps a virus, or perhaps he was still, in fact, on a hunger strike. I wanted to know what kinds of psychotropic drugs, if any, he was taking. I wanted to know whether he had in fact attempted suicide recently, as he claimed. Whatever explanation might be forthcoming, it was obvious to me that my client was nearing death and that I needed to know what was going on.

28. The lawyer from the office of the Staff Judge Advocate told me that he would get back to me. After the habeas lawyers finished with their lunch, I asked our escort to contact the office of the Staff Judge Advocate so that I could learn the status of my request. The message



that was communicated to me was that JTF-GTMO was “aware” of Mr. Latif’s health status and that the doctors on base provided excellent medical care to all of the detainees. My request for access to Mr. Latif’s medical information was denied.

29. When we returned for the afternoon to visit with Mr. Latif, there was evidence that he had vomited in our absence. He was again lying on the floor, and we again helped him to a chair. At his request I had returned with several juice drinks, which he tried to drink – with some limited success – during the hours of our visit. Mr. Latif was pleased that he was able to keep the liquid down, telling me that he was terrified that the guards would try to force-feed him if he could not manage to eat on his own.

30. I will not, of course, disclose the content of our discussions, but I will note that Mr. Latif dwelled on his mortality throughout our conversation and seemed to be utterly despairing. Although he would occasionally perk up as we spoke – such as when we discussed the fact that his photograph was on the cover of the Amnesty International Magazine last year, with his story detailed inside it – for the most part he was the very picture of depression. Mr. Latif made it clear to me before our visit ended that he never expected to see me again because he was certain that he would be dead before I could return.

### **Conclusion**

31. I believe that Mr. Latif is nearing death. Respondents will not tell me what is wrong with him or why he now weighs only about 100 pounds. I need to know this information in order to figure out if there is something I can do to help him.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 15, 2008 in Guantánamo Bay, Cuba.

\_\_\_\_\_  
/s/  
MARC D. FALKOFF

# Exhibit B

In the Name of Allah, Most Gracious, Most Merciful

ISLAMIC HOSPITAL  
Amman, Jordan

[illegible logo]

No.

Date: 08/21/1994

Corresponding to:

Medical Report

Patient's Name: Adnan Abdul Latif Al-Shir'abi

The patient was admitted under my supervision to the Islamic Hospital on 07/09/1994 following a head injury. He was suffering from aches and a headache. A clinical text showed blood concentration and hemorrhage above the left eye, and a hole in the left eardrum.

The x-ray test showed a broken skull but no brain injury.

He underwent careful treatment and his condition improved with medicine and clinical monitoring. He was released from the hospital on 07/14/1994. It is recommended that he return to the Islamic Hospital after six months to complete his tests.

[signature]

Dr. Wa'el Abu Khalaf

Orthopedic Surgeon, FACS England

[illegible stamp]

[stamp:] Islamic Hospital  
Medical Report  
Date:

[illegible] on 08/22/94

[signature]

[illegible seal]

[See original for contact information in Arabic and English.]

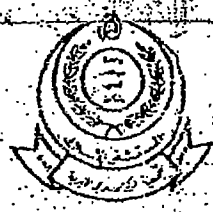
**[See original for photocopied passport in Arabic with corresponding English text.]**

ISLAMIC HOSPITAL

AMMAN - JORDAN

المستشفى الإسلامي

بغداد - العراق



Date

1994/8/22

الرقم  
التاريخ  
الموافق

اسم المريض : عدنان عبد اللطيف الشريمي

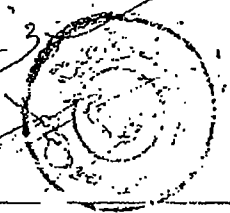
ادخل المريض تحت اشرافى الى المستشفى الاسلامي يوم 1994/7/9 اثر اصابه للراس حيث كان يشكو من الام وصداع في اذنه اليمنى واليسرى تبين وجود تجمع دموي وتزيف فوق العين اليسرى وكذلك وجود قبة بطنية الاذن اليسرى.

وبالفحص الشعاعي تبين وجود كتلة كيسية الحجمية والاشعة التطبيقية تبين عدم وجود اية اصابة للدماغ. تمت معالجته تحفظيا وتمت حالته بالادوية والمراقبة السريرية. وخرج من المستشفى يوم 1994/7/15. ينصح بعودته للمستشفى الاسلامي عمان بعد ستة شهور لاستكمال

الدكتور وائل ابو خلف  
استشاري جراحة العظام والتمثل  
Orth: FRCGS, England

المستشفى الإسلامي  
تقرير طبي  
التاريخ

الدكتور: وائل ابو خلف  
Date: / /



هاتفون 68-117 فاكس 661773 صندوق بريد 925693 فاكس 21979 ISLAMI JO  
TEL : 680127 Fax : 661773 P.O.Box : 925693 Telex : 21979 ISLAMI JO

الجمهورية اليمنية  
 REPUBLIC OF YEMEN  
 وزارة الداخلية  
 MINISTRY OF INTERIOR  
 مصلحة الهجرة والوزارات الأجنبية  
 AUTHORITY OF IMMIGRATION PASAPORTS AND AMBASSY

هذا تصريح صادر من  
 وزارة الداخلية  
 بقبول صاحب هذا  
 الجواز في السفر الى  
 دولة الولايات المتحدة  
 لمدة ٥ أشهر  
 اعتباراً من تاريخ  
 إصداره  
 في ١٤ من شهر ٥ سنة ١٣٩٤

رقم الجواز: ١٤٤٤٤٤٤٤  
 تاريخ الميلاد: ١٤٤٤  
 الجنس: م

(Official Seal)

1 Passport No. ٠٤٢٩٦١  
 رقم الجواز ٠٤٢٩٦١

جمهورية اليمن  
 Ministry of Interior



هذا تصريح صادر من  
 وزارة الداخلية  
 بقبول صاحب هذا  
 الجواز في السفر الى  
 دولة الولايات المتحدة  
 لمدة ٥ أشهر  
 اعتباراً من تاريخ  
 إصداره  
 في ١٤ من شهر ٥ سنة ١٣٩٤

Adnan A. Al-Villabi  
 رقم الجواز: ١٤٤٤٤٤٤٤

١٣٩٤

Passport valid for the USA

In the Name of Allah, Most Gracious, Most Merciful

Republic of Yemen  
Ministry of Defense  
Chief of Staff Headquarters  
Military Medical Insurance Department  
Military Medical High Committee

[logo:]  
Republic of Yemen

[photograph]

Military Medical Decision Form      Session No. 30      Decision No. 412  
Patient's Name: *Adnan Farhan Abdul Latif*      Age: 19 years  
Date: 07/10/1995      Military Rank: *Enlisted*  
Military Number: *Civil*      Unit: *Department of Personnel General Affairs*

*Department of [illegible]*  
[signature]  
07/16/1995

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Diagnosis:    1. *Loss of sight in the left eye as a result of eye nerve [illegible]*  
                  2. *Loss of hearing in the ears.*

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Medical Committee's Decision:

*He shall be referred to the medical benefits and has a second degree injury. If his injury were due to military service, the medical disability coverage rate is 100% (one hundred percent).*

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Internal Medicine	Surgeon	Urologist	Ophthalmologist
[signature]	[signature]	[signature]	[signature]
Otolaryngologist	Neurologist	Orthopedist	Medical Committee's Head
			[illegible handwriting]

---

The Medical Committee's Decision shall be carried out

[signature]  
**Col. Ali Mohamed Naji Nasser**  
Deputy Chief,  
Military Medical Insurance Department  
Director, Military Hospital

[signature]  
**Col. Dr. Ahmed Mohsen Al-Akwa'**  
Chief,  
Military Medical Insurance Department  
[seal:] Republic of Yemen  
Military Medical Insurance Department  
Chief of Staff Headquarters  
[illegible handwriting]



الجمهورية العربية السورية  
وزارة الدفاع  
رئاسة هيئة الأركان العامة  
دائرة التأمين الطبي العسكري  
اللجنة الطبية العسكرية العليا

استمارة القرار الطبي للمسكريين رقم الجلسة ( ) رقم القرار (٤١٦)

اسم المريض: عبدان فرحان عبد الحفيظ العمر: ١٩ عاماً

التاريخ: ١٠ / ٧ / ١٩٩٥ م الرتبة العسكرية: مفتوح

الرقم العسكري: مدني الوحدة: دائرة

ادارة  
الطبية  
العسكرية  
العليا  
الدمشق  
١٩٩٥  
١٠ / ٧

التشخيص: انعدام البروتين في بصره اليسرى ناتج عن جهد بصرى

بصري  
انفصال الشبكية

قرار اللجنة الطبية:

بحال ان بصره اليسرى وسوءه درجة ثمانية اذا كانت بصره  
يساراً يجب له كرتي رتبة بصره اليسرى ١٠ / ١٠

أخصائي العيون

أخصائي المسالك

أخصائي التبراة

أخصائي الماطية

رئيس اللجنة الطبية

أخصائي العظام

أخصائي الأعصاب

أخصائي الاذن والاذن والحنجرة

بمقتضى قرار اللجنة الطبية

عميد ركن / دكتور / عبد الحفيظ حسن الاكوع

مدير دائرة التأمين الطبي العسكري

عميد ركن / عبد الحفيظ ناجي نصر

نائب دائرة التأمين الطبي العسكري  
مدير المستشفى العسكري



[stamp:]  
Issued by Al-Thawra General Hospital under  
No. 1239/8  
Date: 08/18/1999  
Attachments: [illegible]

[photograph]  
[illegible seal]

In the Name of Allah, Most Gracious, Most Merciful  
Republic of Yemen  
Ministry of Public Health  
Office of Health Affairs  
Al-Thawra General Hospital  
At Taz  
Date: 08/18/199-  
No.

Medical Report for Adnan Rahman Abdul Latif Al-Shir'abi

The above-named is hard of hearing. Upon examination, a wide circular hole was detected in his left eardrum. The attached audiography revealed a hearing loss in the left ear. [illegible]  
We recommend that he return to the previous center outside for more tests and therapeutic and surgical procedures at his own expense... This is to whom it may concern...

Treatment Doctor	Division Chief	Technical Director	Hospital's General Director
[signature]	[signature]	[signature]	[signature]
[illegible date]	[illegible date]	[illegible date]	[illegible date]

[seal:] Republic of Yemen  
Al-Thawra General Hospital

Copies [illegible], Medical Affairs Office

[illegible] hospital  
as long as it is at his own expense  
[signature]  
[illegible name & seal]

[illegible stamp:] Yemeni Foreign Ministry

[illegible seal]

[fiscal stamps]

LATIF 1/



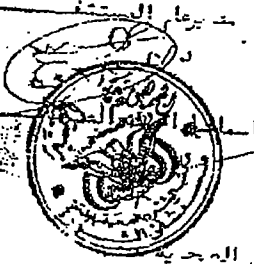
صادق منعقدي الثورة العام بـ  
الرقم ٨١١٢٥  
التاريخ ٨ / ١٢ / ١٩٩٩ م  
المرقات

بسم الله الرحمن الرحيم  
التاريخ ١١ / ١١ / ١٩٩٩ م  
الرقم /

الجمهورية العربية السورية  
وزارة الصحة العامة  
مكتب الشؤون الصحية  
مشفى الثورة السلم  
بـ

... مريوطي بختوس / عن ... نان قس ... ان شبتن الارباق الث عربي ...

المذكور أعلاه يعاني من ضعف في السمع وتعدت نفسه تبين وجود ثقب خلفي  
واسمي نبي عليه الاذن اليه نرى كما تبين بنمايط السمع الارباق يهنا وجود  
ضعف في السمع في الجزء اليتري تويري في زاوية يتيان  
... في وجوده ... ورقر السابق في الخارج لتزيد من التحولات الاجراءات العلاجية  
الجراحية على حسب ما به الخارج ... وهذا من بهملا ...



الجزء التخصصي  
رقم التوقيع  
رئيس القسم  
رئيس الكمية

الطبيب المزمع  
... / ...  
عبد الواد السامي

Handwritten notes and scribbles at the bottom left, including a circular stamp and illegible text.

الجيمهورية العربية السورية  
THE PUBLIC HEALTH  
وزارة الصحة العامة  
FOREIGN AFFAIRS  
مكتب الشؤون الصحية  
مشفى الثورة السلم



# Exhibit C

Yes, I Adnan Farhan Abd-El-Latif authorize the attorneys, David Remes, Marc Falkoff and others from Covington & Burling firm to withdraw papers and medical reports that relates to me from hospitals, specifically from Jordan and Yemen which proves the reality of my medical situation and what I suffer from and what documented medical situation I am in.

Patient name: Adnan Farhan Abd-El-Latif


Signature: Illegible

Date: December, 22<sup>nd</sup>, 2004

Arabic Version  
#1 also for  
copy identification

UNCLASSIFIED

نعم أنا عدنان فوجانا عبد الحفيظ بناءً على التوكيل للمحاميين ديفيد ليميس  
ومارك نالكوف من شركة كوفيتشن و بر ليغ وأخوين من هذه الشركة  
على مسح الأوراق والتقرير الطبي الخاص بي من المستشفيات  
وخاصاً الأردن واليمن التي تبين حقيقة الأمراض التي  
أعاني منها والحالة التي تشب ما أنا عليه من الحالة الصحية

أمم المريضا = عدنان فرعان عبد الله  
التوقيع =   
التأريخ = ٢٥ / ١٣ / ٢٠٠٤

UNCLASSIFIED

143-4-2