

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

IN RE:) **Misc. No. 08-442 (TFH)**
)
GUANTÁNAMO BAY DETAINEE)
LITIGATION) **Civil Action No. 05-1704(RMU)**
)

DECLARATION OF ELIZABETH P. GILSON

Elizabeth P. Gilson declares as follows pursuant to 28 U.S.C. § 1746:

1. I am an attorney licensed to practice law in the state of Connecticut. I am counsel to Arkin Mahmud (ISN 103).
2. Mr. Mahmud is a prisoner in the prison maintained by the United States military at the U.S. Naval Base at Guantánamo Bay, Cuba. He has been imprisoned there without charge since the summer of 2002. On his behalf, I filed a petition of *habeas corpus* captioned above.
3. I have had at least four separate meetings with Mr. Mahmud at Guantánamo Bay beginning in August 2006. I have visited Mr. Mahmud on separate trips to Guantánamo Bay in: August 2006, May 2007, October 2007, May 2008, and August 2008. My last meeting with him was on August 27, 2008. J. Wells Dixon, an attorney with my co-counsel, the Center for Constitutional Rights, visited Mr. Mahmud at Guantánamo Bay in January 2007.
4. During my meetings with him, Mr. Mahmud has repeatedly conveyed to me his authority for me and my colleagues at the Center for Constitutional Rights to represent him in connection with his imprisonment at Guantánamo Bay, including but not limited to prosecuting the petition for a writ of habeas corpus that was filed on his behalf in Case No. 05-CV-1704.

5. Mr. Mahmud has not signed a written authorization because he is wary of signing documents and because I do not believe that any rule or order of this Court requires me to do so.

6. On June 27, 2006, Judge Reggie B. Walton entered the Amended Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantánamo Bay, Cuba, first issued on November 8, 2004 in *In re Guantanamo Detainee Cases*, 344 F.Supp.2d 174 (D.D.C. 2004) and certain subsequent related orders in this case (the “Protective Order”). (Case No. 05-CV-2386, Document 66.) The Protective Order did not require petitioners to sign an authorization stating that a petitioner had authorized counsel to pursue the action. Rather, the Protective Order provided that “Counsel shall provide evidence of his or her authority to represent the detainee. . . .” (Prot. Order, Revised Procedures for Counsel Access to Detainees at the U.S. Naval Base in Guantanamo Bay, Cuba, § III.C.2.) It has been my understanding during my representation of Mr. Mahmud that evidence of my authority to represent a detainee may take the form of a sworn statement. *See Adem v. Bush*, Case No. 05-CV-723 (RWR) (AK), Document 42, at 14-15 (“Here, a sworn statement provides evidence that [petitioner] was actively seeking a lawyer to represent him.”). To my knowledge, the Government has abided by this order since that time in cases involving other men imprisoned at Guantánamo Bay.

7. I have filed a petition under the Detainee Treatment Act of 2005 (DTA) in the Court of Appeals for the District of Columbia on behalf of Mr. Mahmud. On June 26, 2007, I requested a visit to Mr. Mahmud and received an electronic mail reply from August Flentje of the Department of Justice, counsel for the Government in the DTA action. Mr. Flentje advised me that in order to visit Mr. Mahmud I would have to provide the Department of Defense with

“written evidence” establishing the attorney client relationship. A copy of the electronic mail communication is attached hereto as Exhibit 1.

8. In response, I served upon the Government a Declaration signed by me dated June 29, 2007. A copy of that Declaration is attached hereto as Exhibit 2.

9. Mr. Flentje reviewed the Declaration and advised me that it was “adequate” to establish written evidence of the attorney-client relationship. *See Exhibit 1, supra.*

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

Dated this 25th day of September, 2008



Elizabeth P. Gilson

EXHIBIT 1

To Declaration of Elizabeth P. Gilson

Joel Cogen

From: "Elizabeth P. Gilson" <egilson@snet.net>
To: <epgmail@comcast.net>
Sent: Monday, July 02, 2007 11:57 AM
Subject: FW: Habeas Visit - Mahmud ISN 103

Elizabeth P. Gilson
Attorney at Law
383 Orange Street
New Haven, CT 06511
Ph: 203 777-4050
Fax: 203 787-3259
Cell: 203 623-4644

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-----Original Message-----

From: Flentje, August (CIV) [mailto:August.Flentje@usdoj.gov]
Sent: Friday, June 29, 2007 3:02 PM
To: Elizabeth P. Gilson
Subject: RE: Habeas Visit - Mahmud ISN 103

This declaration is adequate -- you need to send me a signed version (which you can email to me), and then the visit request can be processed.

From: Elizabeth P. Gilson [mailto:egilson@snet.net]
Sent: Friday, June 29, 2007 2:53 PM
To: Flentje, August (CIV)
Subject: FW: Habeas Visit - Mahmud ISN 103

Hi Auggie -- where are we with regard to this matter?

-----Original Message-----

From: Elizabeth P. Gilson [mailto:egilson@snet.net]
Sent: Tuesday, June 26, 2007 4:13 PM
To: 'Flentje, August (CIV)'
Cc: 'Loeb, Robert (CIV)'; 'Llenza, Shannon, Ms, DoD OGC'
Subject: RE: Habeas Visit - Mahmud ISN 103

Auggie -- My response to your email is attached. It was sent by overnight mail to the CSO for review and filing.
Regards, Beth Gilson

Elizabeth P. Gilson
Attorney at Law
383 Orange Street
New Haven, CT 06511
Ph: 203 777-4050
Fax: 203 787-3259
Cell: 203 623-4644

The information contained in this transmission and accompanying documents is intended for the use of the individual or entity named above, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended

recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return e-mail (including the original message in your reply) and by collect telephone and then delete and discard all copies of the e-mail. Thank you.

-----Original Message-----

From: Flentje, August (CIV) [mailto:August.Flentje@usdoj.gov]
Sent: Tuesday, June 26, 2007 12:36 PM
To: Elizabeth P. Gilson
Cc: Loeb, Robert (CIV); Llenza, Shannon, Ms, DoD OGC
Subject: FW: Habeas Visit Coordination Sheet (Bingham McCutchen)

Elizabeth -- Shannon forwarded me your recent request to visit your client Arkin Amahmud (ISN #103) a second time under the interim DTA PO. I need to direct you to a requirement in the interim PO that will need to be satisfied prior to this visit -- DTA section 9.B. It applies in direct petitions, such as Amahmud's, and requires the submission to DoD of written evidence, such as Exhibit C to the interim protective order, establishing the attorney-client relationship. Until that is done, there cannot be a visit (nor can the confidential legal mail system be utilized). You may satisfy this requirement by emailing me the appropriate written evidence.

Thanks,

Auggie

cc: Shannon Llenza, Bob Loeb

EXHIBIT 2

To Declaration of Elizabeth P. Gilson

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

ARKIN MAHMUD,

Petitioner/Plaintiff,

v.

ROBERT M. GATES,

U.S. Secretary of Defense;

Respondent/Defendant.

No. 07-1110

DECLARATION OF ELIZABETH P. GILSON

Pursuant to 28 U.S.C. § 1746

I, Elizabeth P. Gilson, declare the following, under penalty of perjury:

1. I am an attorney licensed to practice under the laws of the State of Connecticut, with offices at 383 Orange Street, New Haven, Connecticut, 06511. I am a member in good standing of the United States District Courts for the District of Connecticut, the District of Arizona, and the District of Columbia; and the Circuit Courts of Appeals for the Second Circuit, the Ninth Circuit, and the District of Columbia Circuit.

2. I represent Arkin Mahmud (“Petitioner Mahmud”) in the above-captioned matter. Petitioner Mahmud is a native of the Xinjiang Uyghur Autonomous Region, a far-western province of the People’s Republic of China known to its native Uighur population as “East Turkistan,” My representation, which began in 2005, has always been conducted on a *pro bono* basis because my client is indigent.

3. Petitioner Mahmud is a prisoner (ISN #103) at the United States Naval Station at Guantanamo Bay, Cuba ("Guantanamo"). He has been imprisoned there since approximately July 2002.

4. Petitioner Mahmud has told me on multiple occasions that he wants me to represent him with regard to all aspects relating to his imprisonment, including proceedings before this and other United States courts.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 26, 2007, in New Haven, Connecticut.

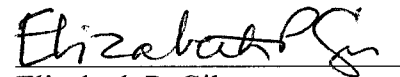

Elizabeth P. Gilson

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2007, I served the foregoing on counsel listed below by causing the original and six copies to be filed with the Court Security Office via overnight mail, with one copy to be conformed and returned to our office in care of 383 Orange Street, New Haven, CT 06511, Tel. 203 777-4050, Fax: 203 787-3259.

August E. Flentje, Esq.
Attorney, Appellate Staff
Civil Division, Room 7268
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Tel: (202) 514-4332

Counsel for Respondent


Elizabeth P. Gilson

**IN THE UNITED STATES DISTRICT COURT
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IN RE:) **Misc. No. 08-442 (TFH)**
)
GUANTÁNAMO BAY DETAINEE) **Civil Action No. 05-1704(RMU)**
LITIGATION)
)

DECLARATION OF ELIZABETH P. GILSON


Elizabeth P. Gilson declares as follows pursuant to 28 U.S.C. § 1746:

1. I am an attorney licensed to practice law in the state of Connecticut. I am *pro bono* counsel to Bahtiyar Mahnut (ISN 277).
2. Mr. Mahnut is a prisoner in the prison maintained by the United States military at the U.S. Naval Base at Guantánamo Bay, Cuba. He has been imprisoned there without charge since the summer of 2002. In July, 2005 I filed a writ of habeas corpus on his behalf in Case No. 05-CV-1704, through his next friend, Usama Kabir.
3. Mr. Mahnut has never met with me or my colleagues. On each occasion we have requested to meet with him, he has refused to meet.
4. On September 18, 2008, I spoke with Mr. Mahnut by telephone. During this conversation, Mr. Mahnut unequivocally provided me with authorization that he wanted me to continue to represent him in connection with his imprisonment at Guantánamo Bay, including but not limited to prosecuting the petition for a writ of habeas corpus that was filed on his behalf in Case No. 05-CV-1704.
5. Mr. Mahnut has not signed a written authorization and I do not believe that any rule or order of this Court requires me to do so.

6. On June 27, 2006, Judge Reggie B. Walton entered the Amended Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantánamo Bay, Cuba, first issued on November 8, 2004 in *In re Guantanamo Detainee Cases*, 344 F.Supp.2d 174 (D.D.C. 2004) and certain subsequent related orders in this case (the “Protective Order”). (Case No. 05-CV-2386, Document 66.) The Protective Order did not require petitioners to sign an authorization stating that a petitioner had authorized counsel to pursue the action. Rather, the Protective Order provided that “Counsel shall provide evidence of his or her authority to represent the detainee. . . .” (Prot. Order, Revised Procedures for Counsel Access to Detainees at the U.S. Naval Base in Guantanamo Bay, Cuba, § III.C.2.) It has been my understanding during my representation of Mr. Mahnut that evidence of my authority to represent a detainee may take the form of a sworn statement. *See Adem v. Bush*, Case No. 05-CV-723 (RWR) (AK), Document 42, at 14-15 (“Here, a sworn statement provides evidence that [petitioner] was actively seeking a lawyer to represent him.”). To my knowledge, the Government has abided by this order since that time in cases involving other men imprisoned at Guantánamo Bay.

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

Dated this 25th day of September, 2008


Elizabeth P. Gilson