

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

**IN RE GUANTANAMO BAY DETAINEE
LITIGATION**

Misc. No. 08-442 (TFH)

Civil Action No. 06-CV-1766 (HHK)

This Document Relates To:

FADHEL HUSSEIN SALEH HENTIF,

Petitioner/Plaintiff,

v.

GEORGE W. BUSH, et al.,

Respondents/Defendants.

DECLARATION OF BRENT N. RUSHFORTH

Brent N. Rushforth declares as follows, pursuant to 28 U.S.C. Section 1746:

1. I am an attorney at the law firm Heller Ehrman LLP, and am licensed to practice law in the state of California and the District of Columbia.

2. My client Fadhel Hussein Saleh Hentif 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 2002.

3. I have met with Mr. Hentif at Guantánamo Bay several times, beginning in December 2006. My discussions with Mr. Hentif during these meetings are attorney-client privileged.

4. During my meetings with him, Mr. Hentif conveyed to me his authority for me and my colleagues at Heller Ehrman LLP and 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 this Civil Action No. 06-1766.

5. Mr. Hentif has not signed a written authorization, and I do not believe that any rule or order of this Court requires him to do so.

6. On November 21, 2006, Judge Henry Kennedy 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. Hentif 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.”).

7. Many prisoners at Guantánamo Bay are suspicious of providing a signature on any document to any person, for any reason. Many prisoners have been told that their lawyers are interrogators or part of the CIA. Others have been told that they are meeting

with their interrogators, when they are in fact meeting with their lawyers. It is hard to gain and easy to lose the trust of clients imprisoned at Guantánamo Bay.

8. The conditions at Guantánamo make it very difficult to forge an attorney-client relationship. I believe that forcing Mr. Hentif to sign an authorization form as a condition of representation could jeopardize the attorney-client relationship.

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

/s/ Brent N. Rushforth

Brent N. Rushforth