

**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-01765 (HHK)**

This Document Relates To:

**IYOB MURSHAD ALI SALEH**, et al.,

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 Iyob Murshad Ali Saleh 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 approximately 2002. During that time, he is likely to have faced torture and abuse at the hands of his captors.

3. I met with Mr. Saleh at Guantánamo Bay in December 2006.

4. During the meeting, Mr. Saleh expressed his discouragement by the prospect of his case in the United States court system. Our meeting took place shortly

after passage of the Military Commissions Act, which purported to strip the courts of jurisdiction over habeas cases.

5. I believe that Mr. Saleh is unfamiliar with the U.S. court system, and does not comprehend the concept of *habeas corpus* and the potential relief it offers. His lack of understanding of the United States legal system is understandable, given that he knows that other prisoners with attorneys have faced long delays, some of many years, while attempting to seek relief from the courts. He can observe that other prisoners received no evident benefit from participating in the U.S. court system.

6. Mr. Saleh has every reason to distrust his captors and keepers. 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.

7. It is clearly in Mr. Saleh's best interests to seek judicial review of his imprisonment. Mr. Saleh has not been charged with any crime in a United States or military court.

8. Further, he likely has no expectation of release. By far, the largest population of prisoners at Guantánamo are Yemeni citizens like Mr. Saleh. The size of the Yemeni population at Guantánamo is the result of the United States and Yemen's inability to come to a mutually agreeable repatriation plan. I believe that guilt and culpability do not play a significant role in the United States' decision to continue imprisoning substantial numbers of Yemeni citizens.

9. At our meeting, Mr. Saleh expressed his willingness to meet with us again during our next trip to Guantánamo. However, since that time Mr. Saleh has declined to meet with me and my colleagues at Heller Ehrman LLP and the Center for Constitutional Rights. We do not know whether Mr. Saleh would like us 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. 06-01765.

10. The conditions and treatment that Mr. Saleh has endured at Guantánamo could have, and likely has, negatively affected his mental competency to make a reasoned decision regarding representation. This potentially makes it impossible to form a direct attorney-client relationship with him. If so, we intend to pursue Mr. Saleh's case by and through the authorization of Mr. Saleh's next friend, his father Murshad Ali Saleh. I believe this Court has authority to proceed in this case on a next-friend basis under the requirements set forth by the Supreme Court in *Whitmore v. Arkansas*, 495 U.S. 149, 163-64 (1990). Attached as Exhibit A is an authorization form signed by Mr. Saleh's father, Murshad Ali Saleh.

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