

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

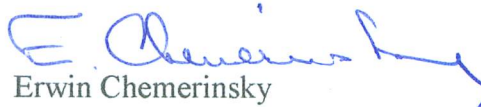
IN RE:)	Misc. No. 08-442 (TFH)
)	
GUANTÁNAMO BAY DETAINEE LITIGATION)	Civil Action No. 1:04-cv-1164 (RBW)
)	

**NOTICE OF AUTHORIZATION BY
FALEN GHEREBI**

Pursuant to the Court's July 29, 2008 Order (Misc. No. 08-442, Document 358), counsel for petitioner Falen Gherebi respectfully submit the attached declaration stating that Mr. Gherebi directly authorized counsel to pursue this action and explaining why counsel was unable to secure a signed authorization as of this date.

Dated: September 29, 2008

Respectfully submitted,



Erwin Chemerinsky
(D.C. Bar No. 289330)
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School of Law
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GUANTÁNAMO BAY DETAINEE LITIGATION)	Civil Action No. 1:04-cv-1164 (RBW)
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DECLARATION OF ERWIN CHEMERINSKY

Erwin Chemerinsky declares as follows pursuant to 28 U.S.C. § 1746:

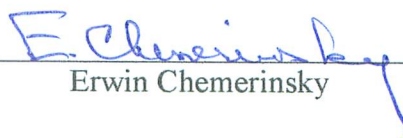
1. I am an attorney licensed to practice law in the District of Columbia and a member of the bar of this court. I am the Dean and Distinguished Professor of Law at the University of California, Irvine School of Law.
2. My client Falen Gherebi is a prisoner in the prison maintained by the United States military at the U.S. Naval Base at Guantánamo Bay, Cuba. He has been imprisoned there without charge since approximately July 2002.
3. I visited with Mr. Gherebi in May 2007.
4. It is my understanding that Gita Gutierrez, my co-counsel, staff attorney at the Center for Constitutional Rights, visited Mr. Gherebi at Guantánamo Bay on two other occasions. My other co-counsel in this matter, Prof. Richard J. Wilson, of American University's Washington College of Law, has not yet met with Mr. Gherebi.
5. During my meeting with him, Mr. Gherebi conveyed to me his authority for me and my colleagues 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. He conveyed similar authority to Ms. Gutierrez during his meetings with her.

6. Mr. Gherebi has not signed an authorization because I have not asked him to do so. I have not asked him to sign such an authorization because I did not believe that any rule or order of this Court required me to do so.

7. On November 8, 2004, Judge Joyce Hens Green issued a protective order 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.) Ms. Gutierrez, Prof. Wilson and I have signed memoranda of understanding and acknowledgements under the terms of this Protective Order. 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. Gherebi 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.

8. The Government never questioned or expressed any doubt concerning our authority to represent Mr. Gherebi. The Government has never denied me or my colleagues access to Mr. Gherebi on the purported basis that we lack the authority to represent him.

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



Erwin Chemerinsky

CERTIFICATE OF SERVICE

The undersigned states that on September 29, 2008, I electronically filed the foregoing **NOTICE OF AUTHORIZATION BY FALEN GHEREBI** with the Clerk of the Court using the ECF system, which will send notification of such filings to all counsel of record.

/s/ Richard J. Wilson

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