

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

IN RE:) **Misc. No. 08-442 (TFH)**
)
GUANTÁNAMO BAY DETAINEE) **Civil Action No. 05-2386 (RBW)**
LITIGATION)
)

DECLARATION OF MATTHEW J. O'HARA

Matthew J. O'Hara declares as follows pursuant to 28 U.S.C. § 1746:

1. I am an attorney licensed to practice law in the state of Illinois. I am a partner in the law firm of Reed Smith LLP.
2. My client Walid Ibrahim Mustafa Abu Hijazi 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 February 2002.
3. It is my understanding that Gitanjali Gutierrez, an attorney with our co-counsel, the Center for Constitutional Rights, visited Mr. Abu Hijazi at Guantánamo Bay in January 2007.
4. I have had nine separate meetings with Mr. Abu Hijazi at Guantánamo Bay beginning in April 2007. I have visited Mr. Abu Hijazi on separate trips to Guantánamo Bay in: April 2007, July 2007, October 2007, January 2008, April 2008, and July 2008. My last meeting with him was on July 22, 2008.
5. I have requested the United States Department of Defense to allow me to visit Mr. Abu Hijazi again on November 18, 2008.
6. During my meetings with him, Mr. Abu Hijazi has conveyed to me his authority for me and my colleagues at Reed Smith 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 Civil Action No. 05 -2386.

7. Mr. Abu Hijazi 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 believed that no rule or order of this Court required me to do so.

8. 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”). (Civil Action No. 05- 2386, Docket No. 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. Abu Hijazi that evidence of my authority to represent a detainee may take the form of a sworn statement. *See Adem v. Bush*, Civil Action No. 05-723 (RWR) (AK), Docket No. 42, at 14-15 (“Here, a sworn statement provides evidence that [petitioner] was actively seeking a lawyer to represent him.”). A copy of this Memorandum Opinion and Order is attached to this Declaration as Exhibit A. To my knowledge, the Government has abided by this order since that time in cases involving other men imprisoned at Guantánamo Bay.

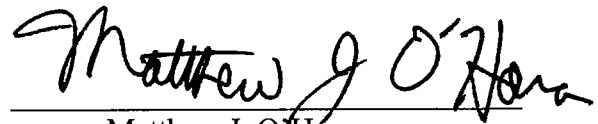
9. We have filed a petition under the Detainee Treatment Act of 2005 in the Court of Appeals for the District of Columbia on behalf of Mr. Abu Hijazi. In that litigation, we filed in

that court and served upon the Government the Declaration signed by me dated November 14, 2007 that is attached to this Declaration as Exhibit B.

10. The Government never questioned or expressed any doubt concerning our authority to represent Mr. Abu Hijazi until it filed its Status Report in Misc. No. 08-442 on July 18, 2008. The Government has never denied me or my colleagues access to Mr. Abu Hijazi 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.

DATED: September 29, 2008


Matthew J. O'Hara

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CERTIFICATE OF SERVICE

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

/s/ Matthew J. O'Hara

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