

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABDUL HAMID AL-GHIZZAWI)
Prisoner,)
Guantanamo Bay Naval Station)
Guantanamo Bay, Cuba;)
)
)
<i>Petitioner,</i>)
) Supplemental Memorandum
v.) (Expedited consideration
) requested)
) No. 05 cv 2378 (JDB)
)
GEORGE W. BUSH, et. al.)
<i>Respondents.</i>)

SUPPLEMENTAL MEMORANDUM

I. INTRODUCTION

Petitioner Abdul Hamid Al-Ghizzawi filed a “new” Emergency Motion for Medical care and Records on February 5, 2008 after Al-Ghizzawi reported in two letters to counsel that he was informed by doctors at the United States military’s Guantanamo Bay detention facility that he had AIDS and after an earlier letter where Al-Ghizzawi reported that a doctor at Guantanamo told him he has a serious liver infection. The affidavit filed by the Government in Opposition admitted that Al-Ghizzawi does not, in fact, suffer from AIDS (leaving counsel to strongly suspect that this was all a cruel hoax consistent with the history of abuse that has been inflicted on other Guantanamo prisoners.) However, that affidavit also admitted that Al-Ghizzawi’s liver problems have worsened in the intervening 18 months (and in fact started to noticeably worsen

by the time Al-Ghizzawi filed his original motion.) The government also admits that it is still not treating Al-Ghizzawi's serious health problems because its medical personnel (including its affiant dermatologist) are under the mistaken belief they cannot treat him without first performing an invasive and potentially dangerous biopsy.

Following the government's troubling admissions and demonstration of the medical incompetence of Guantanamo medical staff in the affidavits of the medical providers, Al-Ghizzawi beseeches this Court to send him to a competent medical facility for treatment and further requests access to his medical records, as argued in his motion, including the relief mandated by the applicable Geneva Conventions, Conventions found applicable to Guantanamo prisoners by the United States Supreme Court. As Ordered by this Court on February 25, 2008 Al-Ghizzawi, through his attorney, hereby supplements his Emergency Motion. Given the page limitations imposed by this Court and in lieu of filing an additional affidavit from counsel this memorandum is filed under oath by his attorney.

II. THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)

Although in theory the ICRC has a presence at the Guantanamo prison, the outcome of that presence has, until now, been negligible for Al-Ghizzawi.¹ Al-Ghizzawi raises the issue of the ICRC in furtherance of his argument that the Geneva Conventions apply to this motion and to address any potential argument by the Government that the

¹ Counsel says "until now" because she recently learned that the ICRC has apparently finally convinced the authorities at Guantanamo, after more than six years of imprisonment, to allow phone calls twice a year between the prisoners and their families... a practice that is *suppose* to start *sometime* in the next few months and also that the authorities are going to try "on a trial

presence of the ICRC might in some way be relevant to the issues raised in Al-Ghizzawi's Motion. Al-Ghizzawi does in fact have periodic visits from representatives of the ICRC who, on occasion, bring him mail. He has not had a visit from the medical doctors of the ICRC for almost one year. Both Al-Ghizzawi and his Counsel have made repeated requests for such a visit.... however the ICRC has told counsel and Al-Ghizzawi that it is very busy and therefore medical visits have not taken place.

Further evidence of the lack of any kind of influence at securing the Guantanamo prisoners' rights to adequate medical care by the ICRC at Guantanamo is that Counsel for Al-Ghizzawi has met with ICRC representatives on two occasions, once in April 2006 and a second time in November 2006, to express her concern over Al-Ghizzawi's health and to ask the ICRC to put pressure on the medical team at Guantanamo to treat Al-Ghizzawi. Counsel has also exchanged emails with the Guantanamo representatives for the ICRC. The April 2006 meeting took place just before the then current Guantanamo representative was leaving his Guantanamo Post. That representative told Counsel that Guantanamo was the most difficult placement in his many years at the ICRC and that working at Guantanamo was worse than working in Iraq during the Iraq/Iran war (where he was previously placed) because of the constant meddling and obstruction by the United States military to the ICRC mission, in clear derogation of this nation's treaty obligations and customary international law.

In the November 2006 meeting counsel met with the ICRC medical doctor who

basis" to allow communal meals at two blocks in Camp 6. Only time will tell if these small steps will actually occur.

was assigned to Guantanamo at that time. Prior to the meeting counsel sent court documents to the doctor outlining her attempts to obtain Al-Ghizzawi's medical records and a copy of the release for the medical records signed by Al-Ghizzawi. At the beginning of the meeting the medical doctor mistakenly thought that counsel had obtained Al-Ghizzawi's medical records and started the conversation by expressing his disgust with the United States military for the lack of medical care being provided for Al-Ghizzawi (whom he had recently seen) and the steady decline of Al-Ghizzawi's health as shown by the then recent test results in his medical file (unlike counsel, the ICRC had access to al-Ghizzawi's file and maintains detailed notes regarding his failing health). The ICRC doctor specifically described certain tests that showed the deterioration of Al-Ghizzawi's health and expressed his frustration and anger at the position taken by the military in refusing to treat Al-Ghizzawi despite the ICRC doctor's own stated concern and specific request.

Counsel then explained to the medical doctor that she had not, in fact, actually obtained copies of Al-Ghizzawi's medical records, nor had she even been permitted to see those records at all. The ICRC doctor was quite concerned about this and told counsel that he would not have discussed the tests had he realized she had not seen the records. The doctor asked counsel to keep what he said confidential. The tests that the doctor was referring to related to Al-Ghizzawi's hepatitis and liver condition. The ICRC doctor candidly stated that the affidavits of Dr. Sollock appeared to be drafted to conceal or downplay the test results, rather than explain them. When the meeting concluded the ICRC doctor said that he would try to check in on Al-Ghizzawi

periodically but he admitted that his hands were tied because he simply could not force the military to provide the necessary medical care. The ICRC doctor also admitted that it was difficult to see *everyone who was ill at Guantanamo* because of the medical deterioration of so many of the prisoners, in addition to those prisoners involved in the hunger strike who were being cruelly forcibly fed.

Until later in 2007 counsel kept the ICRC information confidential hoping that the ICRC medical doctors would succeed in pressuring the military at Guantanamo to treat her client. Eventually, counsel went public in both the United States and Europe with the truth and to illustrate that which the ICRC cannot reveal... that the ICRC can only *watch* the medical deterioration and gross and outrageous malpractice at the base but can do absolutely nothing to stop itand even more disturbingly, that the United States is taking advantage of the confidentiality of the ICRC in the same way that the most abhorrent governments have similarly abused that humanitarian organization, by hiding its malfeasance behind the cloak of ICRC visits.

III. COUNSEL VISIT OF FEBRUARY 26-27 2008

As this Court has been advised, Counsel for Al-Ghizzawi visited with him all day on February 26th and for a half day on February 27th, 2008. Al-Ghizzawi's health continues to worsen. The symptoms that Al-Ghizzawi either complained of during this latest visit, or which were observed by counsel for Al-Ghizzawi, include, but are not limited to the following (Counsel's notes have not yet cleared and it is quite possible that she is forgetting symptoms):

1. Al-Ghizzawi continues to be very distraught over being told that he has AIDS.

Although counsel showed him the affidavit of Dr. Meneley in which the government claims that Al-Ghizzawi is not HIV positive, Al-Ghizzawi has no particular reason to believe officials of the government that has held him prisoner without charge for more than six years, that has repeatedly lied to him, keeps him in cruel and inhuman isolation and still refuses to treat his known and now admitted medical problems.

2. Al-Ghizzawi was extremely weak, found it difficult to talk and spoke very slowly most of the time. During the meetings Al-Ghizzawi had trouble at times remembering conversations that were ongoing and had difficulty completing sentences. This is a symptom that has worsened over the last few meetings.
3. Al-Ghizzawi continues to be very jaundiced and now has very dark circles under his eyes. He looked extremely fatigued.
4. Further, Al-Ghizzawi's diarrhea has worsened. He now complains of diarrhea 4-6 times per day and complains of having several accidents where the diarrhea comes on so quickly he cannot get to the toilet in time. Most of the time he washes his soiled underwear and clothes in his cell. He complained that the area around his anus is extremely soar and uncomfortable from the constant diarrhea.
5. Al-Ghizzawi stated that the doctor wanted to give him amoxicillin for five days and another medicine (counsel does not recall the name but it is in her notes) to see if that will help with the diarrhea. Al-Ghizzawi explained to the doctor that when the guards bring him the pills they bring very cold water for him to swallow the medicine and he cannot drink the cold water. According to Al-Ghizzawi he asked the doctor if he would please put a note in with the medicine instructing the guards to give him warm water,

but the doctor refused this simple request, and Al-Ghizzawi is therefore not even able to take the medicine.

6. Al-Ghizzawi tried not to drink very much water during the meeting with counsel because drinking water sometimes triggers the diarrhea. As usual, he politely and graciously refused the various items counsel brought for him to eat. Just before the meeting ended on Wednesday Al-Ghizzawi took a drink of water and immediately had an intense pain on his right side causing him to bend over in pain for several minutes.
7. Al-Ghizzawi stated that he is also having difficulty urinating because it is very painful for him to urinate and his urine is now dark in color.
8. Al-Ghizzawi's eyes are extremely weak, itchy and watery. He no longer reads. Counsel read to him several of her letters that he never received and one unopened letter that he had with him but which he did not open because he knew he could not read it. He stated that if he tries to read he becomes nauseous and the diarrhea starts again. He also stated he can no longer look at pictures for the same reason.
9. In the fall the base clinic prescribed eyeglasses for Al-Ghizzawi but they are for distance and not for reading... Al-Ghizzawi has no use for distance glasses as there is no where far away that he can look at in his tiny cell. The reason for reading glasses may be age related as Dr. Meneley suggested in his affidavit at ¶9 "There is no evidence of deterioration of the detainee's eyesight *other than* that associated with the changes of age and genetic predisposition." (*emphasis added*) The fact that Al-Ghizzawi has reached the ripe old age of 45 and that the need for reading glasses can arguably be explained by the aging process or by a "genetic predisposition" does not lead to the absurd conclusion

that reading glasses should not be provided. In fact, many of us, counsel included, would not be able to read because of the effects of aging eyes and genetic predispositions if eyeglasses were not available.

10. Al-Ghizzawi complains that he is still cold all of the time and complains of both chills and fever, especially when having his many bouts of diarrhea.
11. Al-Ghizzawi complained that his whole body is in constant pain. The areas that he complained of as being the worst are: around his kidney and liver areas; his lower back (shooting paralyzing pain); his thighs are swollen and stiff; his arm pits are very painful; his ears hurt and his throat constantly tightens up making it hard to swallow. His legs are weak and painful making it very difficult to walk and he has twisted his knee on several occasions because his legs are too weak to hold his frail body up.
12. His skin and scalp remain extremely itchy.
13. Al-Ghizzawi showed counsel his arms that were very red and with a deep scratch in one arm. He stated it was from the restraints that the guards put on him a few days earlier when they were moving him from place to place.
14. When counsel spoke with Al-Ghizzawi about the military claim that he has gained weight he stated they often take his weight with the heavy hand and foot shackles on to boost the numbers.
15. At the meeting between Al-Ghizzawi and Counsel on Wednesday February 27, 2008 Al-Ghizzawi brought in a piece of paper with some notes. He stated that the clinic wanted to run some blood tests on him. Al-Ghizzawi does not trust or respect the medical clinic and he told them he would give an answer after meeting with his lawyer. Two of

the tests were tests that Dr. Jürg Reichen suggested and counsel asked Al-Ghizzawi to allow the tests. He said he would let the doctors know immediately that he will allow those tests but he still adamantly refuses to allow the military to do the unnecessary and potentially dangerous biopsy.

16. During the Wednesday meeting Al-Ghizzawi was very depressed. He learned that during the Tuesday meeting with counsel an ICRC representative came to see him (not a medical representative). Since he was not in his cell the representative gave a report to one of the prisoners in the same block to tell Al-Ghizzawi. When Al-Ghizzawi returned from the attorney meeting the other prisoner shouted the information to Al-Ghizzawi through the small hole in the floor of his cell door where the food is pushed in. The prisoner yelled to Al-Ghizzawi, (who stretched out on the floor of his cell with his ear to the hole in his cell door so he could hear the report) that the ICRC visited with Al-Ghizzawi's wife and daughter in Afghanistan for the first time and that their situation is very bad. He told Al-Ghizzawi that his wife is caring for her father who is now blind and unable to walk (her mother died while Al-Ghizzawi has been held at Guantanamo). That in addition to caring for their own six year old daughter she also cares for her sister's young child (her sister and her husband are also recently deceased but Al-Ghizzawi does not know how they died) and she cares for several of her nine siblings, (the youngest of whom is seven years old). The ICRC reported to the other prisoner that Al-Ghizzawi's family is in extreme poverty and destitution.
17. Al-Ghizzawi stated that he spends his days sleeping ... it is all he can do.

IV. CONCLUSION

In this Court's Order of February 25, 2008 this Court noted that the Opposition filed by the government provided "useful information." The filing by the government was useful in the sense that it provided uncontroverted evidence that the government is clearly more interested in hiding and otherwise obfuscating its own mistakes than in treating its prisoners, despite its moral, legal and treaty obligations to do so. What the government has failed to provide is "*helpful* information." Fortunately for Al-Ghizzawi the U.S. Constitution imposes a system of checks and balances. This Court is in a position to come to Al-Ghizzawi's assistance and grant the relief sought in his New Emergency Petition, not as a humanitarian gesture, but as a matter of justice under the rule of law. Given the compelling circumstances of this case, Al-Ghizzawi respectfully requests an expedited hearing on his Petition and an Order by this Court to grant the relief sought in this Motion and to move Al-Ghizzawi to a competent civilian medical facility, as required by this nation's treaty obligations under the Geneva Conventions and customary international law *post haste* and for whatever and further relief this Court deems just.

SUBMITTED UNDER OATH BY,

/s/H. Candace Gorman

Counsel for Petitioner

CERTIFICATE OF SERVICE

I, H. Candace Gorman, certify that I today caused a true and accurate copy of AL-GHIZZAWI'S SUPPLEMENTAL MEMORANDUM to be served upon the following persons by virtue of filing the above listed document with the U. S. Department of Justice Litigation Security Section:

Terry Henry, Esq., Senior Trial Attorney
Andrew I. Warden, Esq., Trial Attorney
U.S. Department of Justice
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20 Massachusetts Ave., NW, Room 7144
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This 7th day of March, 2008.

/s/ H. Candace Gorman
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