

UNITED STATES OF AMERICA

DISTRICT OF COLUMBIA

GAILLARD T. HUNT deposes and says:

1. I am a member of the Bar of the United States District Court for the District of Columbia. I make this affidavit on my personal knowledge to show my attempts to communicate with my putative client, Saifullah Paracha, who is petitioner in this case.

2. On October 29, 2004, I received by fax a letter from Admiral J. M. McGarrah dated October 27, 2004, saying that family members could write to Guantanamo prisoners at 160 Camp X-Ray, Washington, D.C. 20355. This letter is attached as Attachment 5. (In the ECF docket some of these attachments will necessarily appear as separate pdf files, but they are intended as part of this affidavit.)

3. That day or the next I deposited in a U.S. mailbox, with postage affixed, a manila envelope addressed to Paracha at the address Admiral McGarrah had specified. I taped to the envelope the following notice:

"This communication from an attorney to a potential client is not related to any future confidential communications. Sending it by non-secure means implies no waiver of the privilege for other communications. Persons opening, reading, or making copies of this communication agree there is no such waiver."

On or shortly before December 23, 2004, I received back in the mail that envelope. It is unopened but frayed around the edges and has an ambiguous postal stamp saying it was "unclaimed" or "refused" or had an insufficient address. The above notice had been partly removed. Some of the approximately 55 days this envelope was gone may be

accounted for by the fact that I moved from Grant Street in Bethesda to Gleason Street in Silver Spring on December 15, 2004, but I was getting my mail at Grant Street up to December 15, so a delay of at least 40 days is unaccounted for. Attachment 6 is a photocopy image of the part of the envelope with markings.

4. Meanwhile, I was getting statements of support for Mr. Paracha from various people in Pakistan and New York. I sent copies to Admiral McGarrah for submission to the Combatant Status Review Tribunal. I also sent copies to Mr. Paracha at the 160 Camp X-Ray, Washington, D.C. 20355 address, as before. I sent the various statements, always with a covering letter, on or about the following dates:

November 3, 2004

November 11, 2004

November 12, 2004

November 20, 2004

None of these have been returned to me to date, but neither have I received any acknowledgement or response.

5. On December 23, 2004, I assembled an envelope containing the amended petition, the "Revised Procedures for Counsel Access to Detainees at the U.S. Naval Base in Guantanamo, Cuba", a set of formal interrogatories (Attachment 1), and some other documents. I was careful to follow all the procedures (no paper clips, each page marked "Attorney-Detainee Materials", etc., etc.) required by the "Revised Procedures for Counsel Access to Detainees at the U.S. Naval Base in Guantanamo, Cuba". I sent this envelope to the Habeas Privilege Team in Suite 5300, 20 Massachusetts Avenue NW, Washington, D.C. 20530, with a letter requesting that they transmit it to Saifullah

Paracha at Guantanamo, or contact me if there were any problems in doing so. That letter is Attachment 2.

6. I also served the interrogatories on Paracha by mailing them to counsel for respondents herein on or about December 23, 2004, with a cover letter, Attachment 3, explaining that the interrogatories were interrogatories under the FRCP, served on Paracha through them because respondents have Paracha under their complete control.

7. January 28, 2005, I received an email saying that a communication from Paracha has arrived in the Washington area and is being held either in the Court Security Officer's office, or in the Secure Facility, or somewhere else under government control. After several telephone discussions in a good faith effort to acquire that communication, I sent an email to the CSO and to attorneys for respondents requesting that the communication be released to me, either without the screening required by the protective orders, or, if need be, after that screening has been accomplished. The resulting series of emails is Attachment 4.

8. To date I have not seen that communication nor any communication from Saifullah Paracha. If I understand the government's position, they feel that my motion to vacate or modify the protective order in this case justifies their retaliating by refusing me all communication with the prisoner, even that allowed by the version of the protective order presently in effect.

9. I hereby reaffirm my promise made in Attachment 4: Any information I might receive from Guantanamo that seems to deal with any future violence or crime I will report to the government, as the D.C. Bar Rules allow. I also agree that I will not

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

SAIFULLAH PARACHA,
Detainee,
Guantanamo Bay Naval Station,
Guantanamo Bay, Cuba,

Petitioner,

by
FARHAT PARACHA,
65 Khayaban-E-Mujahid
Defence Housing Authority, Phase V,
Karachi, Pakistan,

Next Friend,

v.

Case No. 04cv02022-PLF

Hon . GEORGE W. BUSH
1600 Pennsylvania Avenue NW,
Washington, D.C. 20500,

Hon. DONALD H. RUMSFELD
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000,

and
Brigadier General JAY HOOD,
Commander, Joint Task Force-GTMO,
Guantanamo Bay Naval Station
Guantanamo, Cuba

Respondents.

INTERROGATORIES

Petitioner's Next Friend, FARHAT PARACHA, by her attorney, requests that petitioner SAIFULLAH PARACHA answer the following interrogatories in writing, pursuant to Rule 33 of the Federal Rules of Civil Procedure, that respondents deliver these interrogatories to petitioner without delay, and give him writing materials and any assistance he needs to answer, and that the answers be served on her attorney Gaillard T. Hunt within 30 days, or sooner, after the delivery of these interrogatories to respondents' attorneys and the privilege team.

This communication is not confidential and is undertaken because all other avenues of communication are blocked by respondents. This communication is without prejudice to further communications and without prejudice to the right to confidentiality in further communications.

Mr. Paracha is not obliged to answer any of these questions. In answering any of them he should keep in mind:

- Anything he says may be used against him.
- The questions and answers will be seen by U.S. government authorities, and by the Court, and may become available on the internet through the PACER (Public Access to Court Electronic Records) system.
- Answering questions on a given topic may result in loss of the privilege to refuse to answer further questions on that topic.
- Answering questions on a given topic in this publicly open communication may result in loss of the privilege to communicate in confidence with his attorneys on that topic.

THE QUESTIONS

INITIATING THIS ACTION

1. Do you wish to pursue a habeas corpus proceeding in the United States District Court for the District of Columbia to inquire into the legality of your confinement? If so, please read and review the amended petition and make whatever comments you wish.

(The original petition was filed November 17, 2004. An amended petition was filed to add Mrs. Paracha as the prisoner's "next friend" entitled to bring the petition. Further amendments may be filed if necessary.)

2. Would you like a modification of the Court's protective orders to let you communicate in confidence (either by an unmonitored phone call or by sealed letters not subject to inspection) with Mr. Hunt, or with any other lawyer? Would such communications materially advance the preparation of your legal position?

3. Do you want to be represented by Gaillard T. Hunt, a member of the Bar of this Court? (His resume is attached. He understands you are in no position to advance a fee, and he will try to get compensation from public funds under the Criminal Justice Act (CJA), the Equal Access to Justice Act, or some other law.)

5. Is there any other American lawyer you would like to have contacted and invited to assist you?

6. Please fill out and return the CJA Form.

THE COMBATANT STATUS REVIEW TRIBUNAL

7. Do you have a written record of your proceedings before the Combatant Status Review Tribunal? If so, please supply it or a copy of it.

8. Have you been told the ruling of the CSRT? If so, what was it.

9. Please supply the name and contact information of your personal representative before the CSRT, and any other person who has helped you.

CIRCUMSTANCES OF YOUR CONFINEMENT

10. Is your present confinement humane, i.e., with adequate food and shelter, exercise, religious services, medical treatment, opportunity for communication, work, and recreation, etc.?

11. Were you at any time since your seizure subjected to inhumane or abusive treatment?

RELEASE

12. Has anyone in authority suggested a possible or probable date for your release, or suggested circumstances which might lead to your release?

13. In the event of your release, do you wish to be released in Karachi, New York, there in Cuba, or at some other place?

Please subscribe your answers with the date, your signature, and the statement, "I swear under penalty of perjury that the above statements are true."

Respectfully submitted,

December 23, 2004

GAILLARD T. HUNT

Attorney for Petitioner
(D.C. Bar No. 89375)
1409 Gleason Street
Silver Spring, Maryland 20902
(Not admitted in Maryland)
301-530-2807
gthunt@mdo.net
(Fax: 301-564-6059)

Attachment 1 (Interrogatories)

Gaillard T. Hunt

301-530-2807
gthunt@mdo.net

Attorney at Law
1409 Gleason Street
Silver Spring, Maryland 20902

Admitted:
D.C. Bar, #89375
(Not in Maryland)
U.S. Tax Court

December 23, 2004

Habeas Privilege Team
c/o Jennifer Campbell
Department of Justice
Compliance Review & Litigation Security Group
(CRLSG)
Suite 5300 (phone 202-514-9016)
20 Massachusetts Avenue NW
Washington, D.C. 20530

Re: Paracha v. Bush, 04cv02022-PLF

Dear Friends:

Enclosed are some Attorney-Detainee Materials for transmission to Saifullah Paracha, detained at Guantanamo. His responses should be returned to me as soon as possible.

I believe I have followed the instructions in the "Revised Procedures for Counsel Access to Detainees at the U.S. Naval Base in Guantanamo Bay, Cuba," but if there are any questions or problems please contact me at 301-564-6059.

Thank you for your kind assistance in this matter.

Yours truly,

Gaillard T. Hunt

Attachment 2 (Letter to Privilege Team)

Gaillard T. Hunt

301-530-2807
gthunt@mdo.net

Attorney at Law
1409 Gleason Street
Silver Spring, Maryland 20902

Admitted:
D.C. Bar, #89375
(Not in Maryland)
U.S. Tax Court

December 23, 2004

Andrew Warden, Esq.
Lisa Olson, Esq.
Department of Justice, Civil Division, Federal
Programs Branch
Room 6118 (phone 202-616-8474)
20 Massachusetts Avenue NW
Washington, D.C. 20530

Re: Paracha v. Bush, 04cv02022-PLF

Dear Friends:

Enclosed are interrogatories under the FRCP addressed to Saifullah Paracha. Since he is under the government's control, and since none of my communications to him have been acknowledged, and one has been returned by the Postal Service ambiguously marked "Unclaimed," "Refused" or insufficient address, I am sending them to counsel for respondents. If answers are not returned within 30 days an appropriate motion to compel will be made.

Thank you for your kind assistance in this matter.

Yours truly,

Gaillard T. Hunt

Attachment 3 (Letter to Attorneys for Respondents)

From: "GT Hunt" <gthunt@mdo.net>
To: <Andrew.Warden@usdoj.gov>
Cc: <Preeya.Noronha@usdoj.gov>
Subject: Re: Mail from Saifullah Paracha
Date: Sunday, February 13, 2005 7:19 AM

Dear Mr. Warden:

No, if the return to Gtmo cannot be done in less than a week or so (and I have heard elsewhere that regular mail from prisoners can take literally months to come out), I certainly don't want Mr. Paracha's communication sent there.

I will make a motion to the Court to compell answers to my interrogatories of December 23, 2004 (excpet for interrogatory 7, which became moot when I got the CSRT record through the court filings), and to release Paracha's communication.

Thanks for the information,

G.T. Hunt
(D.C. Bar number 89375)
1409 Gleason Street
Silver Spring, Maryland 20902
301-530-2807

----- Original Message -----

From: <Andrew.Warden@usdoj.gov>
To: <gthunt@mdo.net>
Cc: <Preeya.Noronha@usdoj.gov>
Sent: Thursday, February 10, 2005 2:58 PM
Subject: RE: Mail from Saifullah Paracha

> Dear Mr. Hunt:

>

> I cannot provide you with a reliable estimate regarding processing of the
> letter by personnel at GTMO. It may take several weeks. The staff at
> GTMO processes a significant amount of outgoing detainee mail and timing
> is dependant upon numerous factors, including the content of the
> communication and language. If the letter is returned to GTMO, it will be
> processed according to standard operating procedures for outgoing detainee
> mail. Please let us know immediately if you want us to return the letter
> to GTMO for processing.

>

> As explained in my prior e-mail, the privilege team is a mechanism created
> specifically by the protective order. Because of your continuing legal
> challenge protective order and your unwillingness to abide by its terms,
> the privilege team is not available to review the letter.

>

> With respect to the interrogatories dated December 23, 2004, that you
> asked to be delivered to Mr. Paracha, the CSOs sent your package to GTMO
> for delivery to Mr. Paracha. Whether Mr. Paracha intends to respond to
> your communications is a question I cannot answer. The government simply
> facilitates the delivery of mail from counsel to detainees at GTMO. As I
> hope you can appreciate, the government has no control over whether the
> detainees ultimately respond to these communications.

>
> Finally, with respect to your proposed order regarding protection of
> certain information contained in the declaration attached to the
> government's motion to dismiss, which you sent to me today, the government
> cannot agree to your approach. We continue to stand by our motion to
> designate as "protected information" certain information in the
> declaration and the proposed order attached thereto.

>
> Regards,

>
> Andrew

>
>
>
>
> -----Original Message-----

> From: gthunt@mdo.net [mailto:gthunt@mdo.net]
> Sent: Wednesday, February 09, 2005 3:20 PM
> To: Warden, Andrew (CIV)
> Subject: Re: Mail from Saifullah Paracha

>
>
> Dear Mr. Warden:

>
> Thank you for suggesting that Mr. Paracha's communication could come to me
> if it were returned to Guantanamo and reviewed there.

>
> Could you please tell me how long that would take?

>
> Could you please also address these questions: Is there no authority
> closer
> than Guantanamo who could review the communication, or no one who could
> accomplish the review quicker?

>
> For instance, I got the impression from reading the protective orders in
> these cases that a group here in the Washington area called the Privilege
> Team routinely reviews prisoner correspondence to identify sensitive and
> classified material. If that team would look at Paracha's communication,
> they might well find there is nothing there unfit for public exposure. Or
> perhaps there is some other group equally competent to review the matter.

>
> I know you have been working with these Guantanamo cases for some time
> now,
> and all the routines and available resources may seem commonplace to you
> by
> now. But please try to remember that those of us with only one such case
> are not familiar with the procedures you have worked out, have no way of
> becoming familiar with them unless we are told about them.

>
> So please let me know how long the return to Guantanamo would take, and if
> there are any faster alternatives. The FRCP make it clear we should not
> bother the court with such matters unless we have to, but if there is no
> way
> of getting the communication through in a reasonable time, a discovery
> motion might be the best way. That is why I served a set of
> interrogatories
> dated December 23, 2004. May I also have some indication when they will
> be
> answered?

>
> Please note that the treatment of this initial communication from Paracha
> is
> not to waive or compromise attorney-client privilege for any future
> communications. The interrogatories, at least, are a matter of public
> record.

> Thank you,

>
> G.T. Hunt
> (D.C. Bar number 89375)
> 1409 Gleason Street
> Silver Spring, Maryland 20902
> 301-530-2807

> ----- Original Message -----

> From: <Andrew.Warden@usdoj.gov>
> To: <gthunt@mdo.net>
> Cc: <Christine.E.Gunning@usdoj.gov>; <Preeya.Noronha@usdoj.gov>
> Sent: Wednesday, February 09, 2005 10:03 AM
> Subject: RE: Mail from Saifullah Paracha

>> Dear Mr. Hunt:

>>
>> I am writing in response to your request to access the letter addressed
>> to
>> you from Mr. Paracha, which is currently located at the secure work
>> facility for habeas counsel. I understand that you have spoken to both
>> Preeya Noronha, an attorney with the Justice Department, and Christine
>> Gunning about this issue. This e-mail is in response to those inquiries
>> as well as your e-mail below.

>>
>> As I explained to you during our telephone conversation last week,
>> pursuant to the Amended Protective Order and Procedures for Counsel
>> Access
>> to Detainees at the United States Naval Base in Guantanamo Bay, Cuba
>> (entered in the Paracha case on Dec. 16, 2004), the information in letter
>> sent by Mr. Paracha must be treated as classified information unless and
>> until the privilege team determines otherwise. See Revised Procedures
>> For
>> Counsel Access, section IV.A.6. Consequently, access to this information
>> is contingent upon your compliance with the provisions of the protective
>> order. See Amended Protective Order, paragraph 18. To date, you have
>> not
>> agreed to abide by these procedures. Indeed, you have filed a motion to

>> vacate the protective order, which is currently pending before the court.
>>
>> In light of your position, the government cannot waive, for your specific
>> case, the requirements of the protective order, which were previously
>> developed and sanctioned by the Court to balance the interests of the
>> parties in these cases. Nor is the government willing to create for you
>> special access procedures not contained in the protective order.
>> Accordingly, the government cannot agree to any of the proposals raised
>> in
>> your e-mail. Until you agree to comply with the terms of the protective
>> order and receive appropriate security clearance, the government will not
>> permit you to access the letter in the secure facility, nor will the
>> government submit the letter to the privilege team for classification
>> review.
>>
>> Absent your compliance with the protective order, if you want to access
>> the letter, the government is amenable to returning the letter to
>> Guantanamo Bay for review under standard operating procedures for
>> outgoing
>> detainee mail not covered by the protective order. Following evaluation
>> by military personnel, an appropriate non-classified version of the
>> letter
>> will be released to you. If you wish to avail yourself of this option,
>> please respond to me in writing.
>>
>> Regards,
>>
>> Andrew
>>
>> Andrew I. Warden
>> Trial Attorney
>> U.S. Department of Justice
>> Civil Division, Federal Programs Branch
>> 20 Massachusetts Ave., NW, Room 6120
>> Washington, DC 20530
>> Tel: 202.616.5084
>> Fax: 202.616.8460
>>
>> -----Original Message-----
>> From: gthunt@mdo.net [<mailto:gthunt@mdo.net>]
>> Sent: Monday, January 31, 2005 12:51 PM
>> To: Warden, Andrew (CIV)
>> Cc: Campbell, Jennifer
>> Subject: Mail from Saifullah Paracha
>>
>>
>> Dear CSO and Mr. Warden:
>>
>> Thanks for letting me know there is an envelope from my probable client
>> there at 20 Massachusetts Avenue NW, or at the Secure Facility in Crystal
>> City. (I say probable client, because this envelope will be the first
>> communication I have been allowed to have from him. I assume he consents
>> to
>> the habeas corpus I filed, and to my representing him, but I haven't seen
>> it
>> yet.)
>>

>> My view is that this is an attorney-client communication and it should be
>> passed on to me as soon as possible without anyone else reading it. I
>> hereby agree that any information I might receive from Guantanamo that
>> seems
>> to deal with any future violence or crime I will report to the
>> government,
>> as the DC Bar rules allow. I also agree that I will not transmit
>> messages
>> verbatim, messages in a foreign language, or messages in furtherance of
>> anything unlawful.

>>
>> Since the government rejects this approach, I hereby offer another: If
>> the
>> government agrees that this will constitute no waiver of any part of the
>> attorney-client privilege, nor any waiver of my objections to the
>> protective
>> orders I have moved to set aside or modify, I will consent to the
>> Privilege
>> Team opening this envelope and reviewing its contents, if they will
>> promptly
>> release to me any contents they find not to contain classifiable
>> information, and give me an unclassified list and description of any
>> information they have redacted or suppressed.

>> Thanks for your cooperation.

>>
>> G.T. Hunt
>> (D.C. Bar number 89375)
>> 1409 Gleason Street
>> Silver Spring, Maryland 20902
>> 301-530-2807

>>
>> ----- Original Message -----
>> From: <Jennifer.Campbell@usdoj.gov>
>> To: <gthunt@mdo.net>
>> Cc: <Christine.E.Gunning@usdoj.gov>
>> Sent: Friday, January 28, 2005 8:05 AM
>> Subject: Incoming Mail from Gtmo

>>> G.T.
>>> We received mail from Gtmo for you yesterday: 1 envelope from Detainee
>>> JAJAJID to G.T. Hunt
>>> This item will be placed in your drawer at the secure facility.

>>>
>>> Jennifer Campbell
>>> Security Specialist
>>> Litigation Security Section
>>> (202) 514-9016

>>>
□

End Attachment 4