

The CSO cleared this filing for public filing November 1, 2005.

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

SAIFULLAH PARACHA,

Petitioner,

v.

Case No. 04cv02022-PLF
ORAL ARGUMENT IS REQUESTED

Hon. GEORGE W. BUSH,

et al.,

Respondents.

**PETITIONER'S MOTION
TO BE ALLOWED A BIBLE AND OTHER BOOKS**

Petitioner moves for an order requiring release to him of a Bible and other books at the prison at Guantanamo Bay.

In support of this motion petitioner submits an affidavit of counsel saying that petitioner has repeatedly asked for a Bible, counsel sent him one, and one of the Staff Judge Advocates has said that the Bible will not be released to or delivered to the prisoner. Counsel also sent or delivered fourteen other books to the prison which have not been released to petitioner.

Respondents will oppose this motion.

UNITED STATES OF AMERICA

DISTRICT OF COLUMBIA

GAILLARD T. HUNT deposes and says:

1. I am attorney for petitioner SAIFULLAH PARACHA in his petition for habeas corpus, Paracha v. Bush et al., No. 04cv02022-PLF. I am over 21 years of age and fully competent to testify as follows.
2. I conferred with Saifullah Paracha in the prison compound at Guantanamo Bay, Cuba, on September 14 and 15, 2005, and again on October 24 through 27, 2005.
3. I learned that Saifullah Paracha has been in solitary confinement with very little communication with anyone for most of the last year. I learned that he had been requesting a Bible. From my general knowledge, I knew that the Bible (the Old and New Testaments) is accepted in Islam as one of their holy texts, so I interpreted this as a religious request.
4. On or about September 30, 2005, I purchased a Bible (King James Version) and mailed it (still in the publisher's shrink wrap) to a chaplain at Guantanamo Bay Naval Station, with a cover letter explaining that prisoner number 1094, Saifullah Paracha, had requested it.
5. When I conferred with Saifullah Paracha on October 24, 2005, he told me he had not seen and did not have that Bible or any other.

6. Also on October 24, 2005, one of the Staff Judge Advocates of the Guantanamo base explained to me that Paracha would not be allowed to have a Bible as that would violate prison policy.

7. On information and belief, based on what Saifullah Paracha has told me, there is another Bible somewhere in or near the prison, in a box of things Paracha had at Bagram Air Force Base, which came with him to Guantanamo. He has not been allowed access to this Bible either, despite his repeated requests.

8. I also included in the package I sent on or about September 30, 2005, a paperback English dictionary, which Paracha had also requested, and paperback editions of *Hamlet* and *Julius Caesar*. Paracha indicated he had received none of those.

9. When I visited the prison on September 14, 2005, I brought with me eleven books, all paperback, which Paracha's American relatives had sent to him. I left these with a prison authority (I do not remember who) with the request that Paracha get them. Paracha indicated he had received none of these by the time I left the prison on October 27, 2005.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: November 1, 2005

_____/s/_____
GAILLARD T. HUNT

IN THE UNITED STATES DISTRICT COURT FOR THE
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Case No. 04cv02022-PLF

ORAL ARGUMENT IS REQUESTED

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Respondents.

**POINTS AND AUTHORITIES IN SUPPORT OF
PETITIONER'S MOTION
TO BE ALLOWED A BIBLE AND OTHER BOOKS**

There can be no legitimate governmental interest in denying any prisoner non-inflammatory and non-seditious reading matter (except possibly temporarily as a duly authorized disciplinary measure), because no one can be more confined, and more effectively secured, than while reading. Petitioner's motion therefore asks for release to him of all the books he has been sent: eleven from his family and four from counsel. The legal authorities requiring that petitioner not be subjected to purely penal conditions of confinement as long as he is being held as a possible enemy combatant are discussed

in his motion for release from punitive confinement and need not be repeated here.

Petitioner should be allowed to work, to associate with other prisoners, and to take part in recreational, educational, and cultural activities, and should be allowed access to reading matter generally. But among the books being denied petitioner is a Bible, which he has expressly and repeatedly requested, and that gives him an independent statutory right to relief.

In *Cutter v. Wilkinson*, 125 S. Ct. 2113 (May 31, 2005), Justice Ginsburg, writing for a unanimous Court, observed that several circuits have held that the Religious Freedom Restoration Act, 42 USC 2000bb et seq., is fully binding on federal programs even though the Court held in *City of Boerne v. Flores*, 512 U.S. 507, that it could not constitutionally apply to state activities. 125 S. Ct. 2113, footnote 2.

The Religious Freedom Restoration Act declares broadly that "Government shall not substantially burden a person's exercise of religion, " 42 USC 2000bb-1(a), except when it must do so as the least restrictive means to achieve a compelling governmental interest, 2000bb-1(b). The regulations governing federal prisons provide, under 28 CFR 541.21, "Conditions of disciplinary segregation," that even prisoners being punished for infractions of the rules shall have a reasonable amount of non-legal reading matter, not more than five books at a time, and, "Staff shall provide the inmate opportunity to possess religious scriptures of the inmate's faith." The exact standing of the Old and New Testaments in Islam is not relevant. Cf. *Levitan v. Ashcroft*, 281 F.3d 1313 (D.C. Cir., 2002), rejecting the idea that Catholic prisoners could be denied wine because it is not for the laity an essential part of the communion rite. The Bible is among the scriptures accepted in Islam, and the Act therefore protects petitioner Paracha's access to it.

The Act explicitly provides that anyone whose religious exercise has been burdened may assert "that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government." 2000bb-1(c). Petitioner's motion for access to the books sent to him must be granted, and his request for access to a Bible rests on unassailable statutory grounds.

Respectfully submitted,

November 1, 2005

_____/s/_____
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)

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

SAIFULLAH PARACHA,

Petitioner,

v.

Case No. 04cv020222-PLF

Hon. GEORGE W. BUSH,

et al.,

Respondents.

CERTIFICATE OF CONFERRING

I hereby certify that on November 1, 2005, I conferred with Andrew Warden, Esq.,
attorney for respondents, in an attempt to narrow the issues raised by the within motion.

Respondents will oppose this motion.

_____/s/_____

November 1, 2005

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)

A PROPOSED ORDER FOLLOWS:

IN THE UNITED STATES DISTRICT COURT FOR THE
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v.

Case No. 04cv02022-PLF

Hon. GEORGE W. BUSH,

et al.,

Respondents.

(PROPOSED) ORDER REQUIRING DELIVERY OF BOOKS

On consideration of petitioner's motion, and the opposition thereto, and the entire record,

IT IS HEREBY ORDERED:

That petitioner Saifullah Paracha be allowed to have in his cell a copy of the Bible in English.

FURTHER ORDERED:

That petitioner Saifullah Paracha be allowed to have all other published books sent to him by his relatives or by counsel, unless respondents report to counsel and to this Court

specific reasons for objecting to a given publication within ten days of its arrival at the prison.

IT IS SO ORDERED.

Date

United States District Judge

Notify counsel:

GAILLARD T. HUNT, Esq.
Attorney for Petitioner
(D.C. Bar No. 89375)
8909 Grant Street
Bethesda, Maryland 20817
(Not admitted in Maryland)
301-530-2807
gthunt@mdo.net
(Fax: 301-564-6059)

LISA A. OLSON, ESQ.
ANDREW I. WARDEN, Esq.
Attorneys for Respondents
U.S. Department of Justice
Civil Division, Federal Programs Branch
Room 7144
20 Massachusetts Avenue NW
Washington, D.C. 20530
Tel: 202-514-4107
Fax: 202-616-8470