

No. 07-1098

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

ADEL HASSAN HAMAD,

Prisoner, Guantánamo Bay Naval Station, Guantánamo Bay, Cuba,

Petitioner,

v.

ROBERT M. GATES,

Secretary of Defense of the United States of America,

Respondent.

DECLARATION OF WILLIAM J. TEESDALE

**Steven T. Wax
Federal Public Defender
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Attorneys for Petitioner

I, William J. Teesdale, declare:

1. I am an investigator and attorney employed by the Federal Public Defender for the District of Oregon. I am a member of the bars of Oregon and England. Since October 2005, I have conducted a wide range of investigative and legal work on behalf of Mr. Hamad and several of our other Guantánamo detainee clients. In Mr. Hamad's case, this has included collecting 15 sworn statements from witnesses in Afghanistan, Pakistan, and Sudan.

2. On August 9, 2007, by prior arrangement, I met with Deputy Ambassador Elguneid at the Sudanese Embassy in Washington, DC. Mr. Elguneid was aware of our office's representation of Adel Hamad. I provided the Deputy Ambassador with a brief overview of the status of the various legal proceedings involving Mr. Hamad.

3. The Deputy Ambassador informed me that he has spoken with the State Minister for Foreign Affairs in Khartoum about our visit to Sudan in April, 2007. The Deputy Ambassador indicated that the Embassy had received a letter regarding our visit from the State Minister and provided me a copy of the letter addressed to Steven Wax.

4. Deputy Ambassador Elguneid provided me with a briefing on the status of negotiations regarding two Sudanese detainees who have been cleared for

release, Adel Hamad (detainee 940) and Salim Mohammed Adam bin Amir (detainee 710). Deputy Ambassador Elguneid indicated that a meeting was held at the Sudanese Embassy in Washington, D.C. at the request of the State Department on February 21, 2006. Officials of the Sudanese Embassy, including Deputy Ambassador Elguneid, met with Samuel Whitton, the Director of the Office of War Crimes within the State Department. Mr. Elguneid said that Ambassador Whitton informed them that Adel Hamad and Mr. bin Amir had been cleared by the Department of Defense and were to be returned to Sudan. Deputy Ambassador Elguneid showed me a document dated November 14, 2005, indicating that Mr. Hamad and Mr. bin Amir were "approved for transfer." Mr. Elguneid told me that the State Department requested assurances from the government of Sudan about the detainees' treatment back in Sudan. Mr. Elguneid showed me a page and a half document containing questions posed to the government of Sudan about what would happen to the two detainees upon their return. I requested a copy of this document and the response that Mr. Elguneid later showed me. The Deputy Ambassador said that he would need to check on that and at this point just allowed me to read it and not make any notes.

The document contained a number of requests, such as the following: 1) would the detainees be investigated upon their return to Sudan? 2) Would the

Sudanese government respect the detainees' human rights? 3) Would the government of Sudan allow the United States government access to the detainees if needed? 4) Would the government of Sudan take responsibility for the detainees and prevent them from being a further threat to the United States? 5) The document indicated that United States wanted to clarify that they were handing over control of the detainees to the government of Sudan and wished to make clear that the United States government was not requesting the continued detention of either detainee.

5. Deputy Ambassador Elguneid said that a second meeting took place at the State Department on June 9, 2006, when the Sudanese Embassy gave an official reply to the questions. Deputy Ambassador Elguneid showed me the half-page official response to the State Department which confirmed that the government of Sudan had an independent Ministry of Justice that was capable of conducting an investigation into the detainees' situation. The memo indicated that the government of Sudan would respect the human rights of the detainees and treat them fairly upon their return to Sudan. The memo noted that three detainees had previously been returned to Sudan and they were all living freely in Sudan. Deputy Ambassador Elguneid mentioned to me that U.S. officials have met with some of the released Sudanese detainees in Sudan since their release.

6. Deputy Ambassador Elguneid said that the State Department was pleased to receive the assurances from the government of Sudan and said that the result was encouraging and they would review that with the Department of Justice and the Department of Defense. The State Department also indicated that it was a good start to try and resolve the issue of all of the Sudanese Guantánamo detainees. The State Department indicated that the next step would be to draw up a memorandum of understanding between the two countries. Deputy Ambassador Elguneid said that the State Department indicated that this was an important issue and that they are trying to do the same with other countries.

7. Deputy Ambassador Elguneid said that the dealings with Ambassador Samuel Whitton went quite smoothly but he has since left that department. Deputy Ambassador Elguneid mentioned that the negotiations with the new Ambassador at Large for War Crimes, Clint Williamson, were more difficult. The Deputy Ambassador indicated that he has sent Ambassador Williamson over ten emails about a further meeting to make progress on the issue without success. Deputy Ambassador Elguneid said that he has gone out of his way to try and arrange a meeting and sent him a summary of what has been accomplished to date; each time they say that they will meet, but then no meeting takes place. The Deputy Ambassador said that he is personally very frustrated at the lack of

progress on the issue. Deputy Ambassador Elguneid said he is particularly upset because he reads that other detainees from other countries, such as Saudi Arabia and Afghanistan, have been returned home. The Deputy Ambassador said that the Embassy has provided everything that the State Department has requested, and they have cleared the two Sudanese detainees for release nearly two years ago, and yet they will not release them.

8. The Deputy Ambassador said that the June 9, 2006, was the last meeting that was held with the State Department and his last ten requests for a meeting since that time have met with no progress. The Deputy Ambassador said that the last time he heard from the State Department, there was a response that there would be news in a month or two, but that is now more than two months ago. The Deputy Ambassador said he does not know what the problem is, but believes that the State Department is stuck in the middle between other government departments. The Deputy Ambassador showed me a cable (or possibly email) dated June 7, 2007, to the State Department indicating that the Sudanese Embassy was still waiting for an appointment with Ambassador Clint Williamson.

9. On September 12, 2007, I spoke with the Sudanese Ambassador, Dr. Ukek, about the status of negotiations for the return of Mr. Hamad to Sudan. Ambassador Ukek told me that there had been a visit between Sudanese State

Minister for Foreign Affairs Elsamani and Deputy Secretary of State John Negroponte. The Ambassador indicated that those talks had been productive and that a promise was made that Mr. Hamad and Mr. Adem would be returned to Sudan soon. There had been some hope that both detainees would be able to return together with the State Minister on his return flight, but that was not possible. The Ambassador indicated that his staff have been calling the State Department regularly in order to get an update, but there has been no more information forthcoming about that, or about a visit to Guantánamo that the Ambassador has been promised.

10. On September 26, 2007, Steve Wax and I spoke to Ambassador Ukek about the status of negotiations for the return of Adel Hamad to Sudan and his planned visit to Guantánamo. Ambassador Ukek said that he has heard nothing new from the State Department on either subject, even though he has been trying hard to get answers to these questions. The Ambassador mentioned that it is very difficult for him to plan his official calendar without knowing when he will be able to visit Guantánamo. The Ambassador mentioned that the situation is demoralizing.

11. On October 29, 2007, I had a further conversation with Deputy Ambassador Salah Elguneid, in order to ask whether there were any developments

in negotiations for repatriation of Mr. Hamad, or the visit to Guantanamo. Mr. Elguneid told me that there had been no progress made on either issue.

12. I later received some confirmation that the negotiation process had become delayed when, on November 2, 2007, I spoke with the head of Civic Aid International Organization, Mr. Mogummer, who informed me that there had been a new request for more assurances made by the United States, that had been forwarded to the Sudanese Ministry of Foreign Affairs.

13. On November 9, 2007, I spoke to Ambassador Ukek again. The Ambassador said that there had been a new request for more assurances made by the United States Government, so the return of Mr. Hamad was again delayed. The Ambassador said that the United States Government had promised that Mr. Hamad and Mr. Adam would be returned to Sudan after the State Minister's visit but still nothing has happened.

Dated this 9 day of November, 2007.



William Teesdale
Federal Public Defender Attorney and
Investigator