

Exhibit A

Affidavit of Angela Hegarty, MD

I, Angela Hegarty, MD hereby swear and affirm:

1. I am licensed to practice medicine in New York State. I am a diplomate of the American Board of Psychiatry and Neurology in both Psychiatry and Forensic Psychiatry

2. The following is a brief and abbreviated summary of my observations and opinions regarding the defendant, Mr. José Padilla:

3. I met with Mr. Padilla on five consecutive days from June 26, 2006 through June 30, 2006, and again on September 11 and 12, 2006. To date, I have spent approximately twenty-two hours with the defendant. All the interviews were conducted in the conference room at the Special Housing Unit located at the Federal Detention Center in Miami, Florida. During the interviews the defendant was shackled and manacled, with a belly chain that restricted the movement of his arms.

4. Mr. Padilla was willing to affirm or deny whether he had been subject to interrogation techniques that had been commonly reported in the media. He denied being sexually assaulted or humiliated. He denied being water-boarded with uncharacteristic intensity and insistence. He acknowledged being kept in the dark or with the lights on for very long periods of time, being shackled and left alone for long periods of time, of being kept in a cold environment for long periods of time, and above all, of being certain he would die in the brig.

5. In particular, he described periods of sleep deprivation caused by the discomfort of lying on a steel bun without a mattress and with the lights on. Also, the slamming of adjacent cell doors at regular intervals prevented his sleep. Mr. Padilla recalled asking for medication for pain and being told by staff they were not authorized to give him anything for his pain. He also described an incident during which he felt intense pressure on his chest "like two hundred pounds" and was convinced he was going to die from that intense pressure.

6. During my interview, Mr. Padilla briefly conveyed obviously painful recollections of being taken out of the cell to a "recreation" cage. Mr. Padilla recalled how he begged his guards not to take him out and put him in the cage. He would not say what went on in the cage or why it upset him so. Mr. Padilla also made it clear to me that he had not told me everything that had been done to him in the brig and that he was unwilling to do so.

7. Mr. Padilla told me that he had no way of keeping track of time while in the brig. He was the sole occupant on the lower level of the brig. There were long periods of darkness and long periods of bright artificial light. There were no clocks or calendars. He had no access of any kind to the outside world. He was unable to put

EXHIBIT B

events in chronological order for me. He was clear that early on, for what seemed like months, there was a "terrible time," although he could not be more specific as to what constituted that "terrible time."

8. Though the importance of reviewing evidence has been explained to Mr. Padilla repeatedly by both his attorneys and myself, he has been unable to either read transcripts or listen to tapes of intercepted conversations that the government intends to use as evidence in his trial. When exhorted to do so, he pleads with his attorneys not to "make him" look at or listen to the material.

9. Mr. Padilla makes a number of references to hallucinations and strange experiences during his detention. He is terrified of appearing or being seen as "crazy." He recalled being told by one of his interrogators that if he were to relate a particular experience to someone "on the outside," they would see him as "crazy." He was completely unable to describe those experiences to me. He also made a number of references to drugs or truth serums in the course of his interview and how it affected him. At times Mr. Padilla became intensely anxious and expressed fear of losing his mind on recalling his detention.

10. Mr. Padilla meets full diagnostic criteria for a diagnosis of Post Traumatic Stress Disorder, according to the Diagnostic and Statistical Manual of the American Psychiatric Association Fourth Edition, Text Revision (DSM 4 TR).

11. He has endured a traumatic event that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others and his response involved intense fear and helplessness. The use of prolonged isolation along with tactics designed to have an individual reveal facts they otherwise might not wish to reveal, as well as the fostering of dependence on interrogators not only creates the conditions in which individuals might reveal important information, but also the conditions that induce intense fear, feelings of helplessness and loss of control characteristic of the traumatic experience. Sleep deprivation, physiological stress, and repeated questioning only exacerbate the traumatic nature of the experience. Mr. Padilla believed he was going to die on a number of occasions during his detention. He believed his family would be harmed if he did not comply. He learned that no matter whether he was cooperative, or whether he pleaded with his captors, he was utterly helpless and absolutely dependent on them for everything. He believed and still believes they have the ultimate power to decide what happens in his life, his case, and whether he is released or ultimately is returned to the brig. These traumatic events were exacerbated by their duration. Additionally, Mr. Padilla's current environment wherein he is

still in an unhealthy degree of isolation remains psychologically unsafe for him and only serves to compound the psychological damage that has already been done.

12. These traumatic events are persistently re-experienced in both recurrent and intrusive distressing recollections of the events, including images, thoughts and or perceptions that are necessary for his ability to assist his counsel with his defense. When these intrusive recollections are triggered by turns of phrase or intonation during questioning, Mr. Padilla feels as though the traumatic event is recurring again. In other words, for Mr. Padilla the questioning necessary for the development of his defense dredges up the same emotions he experience during his interrogations at the Brig. Mr. Padilla has demonstrated intense physiological distress and evidenced physiological reactivity on exposure to cues that symbolized or resembled aspects of the traumatic events he has experienced. During questioning about his experiences, his facial tics became prominent and increased in frequency and intensity. He also became diaphoretic at times and appeared restless and anxious.

13. Mr. Padilla makes persistent efforts to avoid stimuli associated with the trauma of his detention and interrogation and demonstrates a general numbing of responsiveness, including efforts to avoid thoughts, feelings and conversations associated with the trauma. For instance he refuses to watch the videos of his interrogation and he refuses to answer questions pertaining to aspects of the evidence in his case. He has large memory gaps related to his detention and he is unable to place events in chronological order or say how long different situations persisted. He also fails to recall important aspects of the trauma. There is evidence of markedly diminished interest in significant activities. He feels detached not only from the man he was and the life he had, but from others as well, and there is a restricted range of affect. Mr. Padilla periodically concludes that no matter what, win or loose, he will be going back to the brig, where he will die, and as such, has a sense of a foreshortened future.

14. There is clear evidence of increased arousal as indicated by the defendant's exaggerated startle response, his periodic hypervigilance, and his difficulties concentrating. In addition to the symptoms of posttraumatic stress disorder, Mr. Padilla also demonstrates the kind of disorientation, confused thinking, paranoid ideation and inability to trust others outside the closed environment characteristic of individuals who have been isolated for a long time.

15. The issue of malingering has to be considered in any evaluation involving legal proceedings. The definition of malingering is the deliberate feigning or exaggeration of psychiatric symptoms for a specific conscious purpose. Such individuals present themselves as more impaired than they actually are. In Mr. Padilla's case the

opposite is true: he strives to present himself as stress and symptom free both on interview and on testing. He was very reluctant to allow a psychiatric evaluation in the first place and is equally reluctant to allow evidence of psychiatric impairment to be brought forward. He is terrified that anyone will consider him mentally ill or crazy. A diagnosis of malingering is not appropriate in this case.

16. Mr. Padilla has not been able to assist his attorneys in reviewing the evidence provided by the government in discovery. He is also unable to answer questions in sufficient detail so as to be of use to his attorneys in his defense. When asked for further information, beyond what has already been given he insists on some occasions that the issues in question "have been established" and no further information is required. On other occasions he insists he has already answered the questions. He is unable to watch video recordings of his interrogation. He is unable to view transcripts of taped phone conversations to be used against him at trial. When approached by his attorneys, he begs them, "Please, please, please" not to have to discuss his case. Efforts to desensitize him to the distress of confronting what happened to him – talking about the tasks at hand in a gradual way without threatening exposure, over time – have utterly failed. Even after sixteen hours of work with undersigned during which he revealed some details of what had happened to him, he was still unable even to consider watching the tapes or reviewing the evidence against him.

17. Mr. Padilla tends to identify with the interests of the government more than his own interests at times. For example, after defense counsel cross-examined FBI agents regarding their interrogation of the defendant in Chicago establishing inconsistencies and aggressive behavior, Mr. Padilla's reaction was concern that the agents could get in trouble. Instead of being pleased with his attorney's efforts to get out the truth, he was more concerned about the effect it could have upon the agents, or the possibility that these efforts on his behalf might result in his return to the brig. This is a common response in individuals who have been traumatized. One way of coping has been traditionally labeled as "identification with the aggressor." In its most extreme form identification with the aggressor leads to Stockholm Syndrome – a condition first described in hostages who identify completely with the aims, motives and perspectives of the hostage takers to the point of joining their cause. Identification with the aggressor works for people in traumatic situations because it is the aggressor who has all the power and the more they meet the aggressor's needs and identify with the aggressor's cause, the safer they are. When such individuals orient themselves with the interests and perspective of the aggressor, anxiety is alleviated. The relief from anxiety is re-enforcing and over time the identification will increase in intensity. Attempts to see things from other

perspectives leads to increasing anxiety. Such identification also aids those seeking to elicit information from detainees: a detainee who is entirely identified with the aims of interrogators is going to try to please them any way possible, up to and including providing information they know is false, in order to curry favor with the captors.

18. Victims of intense traumatic stress experience intense distress in recalling the triggers of the traumatic events. It is as though the recollection of the events made the trauma were recurring. This stimulus triggers a desire to avoid the pain, and hence an individual's inability to engage in discussions about the traumatic events or deal with anything that resurrects the trauma or triggers symptoms. Mr. Padilla's behavior is symptomatic of one who is experience such traumatic recall.

19. Within a reasonable degree of medical and psychiatric certainty, it is my opinion that as the result of his experiences during his detention and interrogation, Mr. Padilla does not appreciate the nature and consequences of the proceedings against him, is unable to render assistance or counsel, and has impairments in reasoning as the result of a mental illness, i.e., post traumatic stress disorder, complicated by the neuropsychiatric effects of prolonged isolation and as such lacks the capacity to assist in his own defense

Further Affiant Sayth Naught

Angela Hegarty
Dr. Angela Hegarty

The foregoing instrument was sworn to and before me this 30th day of November, 2006 by Angela Hegarty

Personally known (x)

Produced identification (x) Dennis Zampani

09/25/2010

My commission expires:

Notary Public
State of New York
County of SUFFOLK

Dennis Zampani
Notary Public, State of New York
No. 01ZA6153036
Qualified in Suffolk County
Commission Expires 09/25/2010