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November 20, 2014

VIA ELECTRONIC MAIL

RE: *Aamer v. Obama*, Case No. 04-cv-2215

Dear Counsel:

This letter responds to your letter of September 10, 2014. Through that letter, Petitioner Shaker Aamer (“Petitioner”) “requests repatriation to the United Kingdom on account of his gravely diminished health.” Letter at 1, or, “[i]f the U.S. Government is unwilling to authorize [Petitioner’s] repatriation to the United Kingdom[,] ... requests a Mixed Medical Commission examination to verify his eligibility for repatriation to the United Kingdom,” *id.* at 3.¹

The Executive Branch respects the humanitarian principles embodied in medical repatriation provisions of the Third Geneva Convention and takes them into account when determining whether it should continue to detain individuals in the circumstances of the current

¹ Respondents object to any characterization of Dr. Emily A. Keram, a physician engaged by Petitioner’s counsel, as an “independent medical expert.” See, e.g., Letter at 1. Additionally, for the reasons set forth in their brief in opposition to Petitioner’s motion for medical repatriation, Respondents object to Dr. Keram’s medical findings concerning Petitioner. See Opp. at 4-12, 28-31 (filed under seal on May 8, 2014).

armed conflict. With respect to Petitioner, and as explained in Respondent's brief in opposition to his motion for medical repatriation, the Executive has not determined that the repatriation of Petitioner for the reasons you identified is warranted. Furthermore, in light of the nature of the conflict in which Petitioner has been detained and the nature of the armed forces of which Petitioner was part, Petitioner does not qualify as an "enemy prisoner of war" and, accordingly, is not entitled to the protections afforded by those provisions of the Geneva Conventions that call for the appointment of a Mixed Medical Commission. See Opp. at 27 & n.22; see also Letter at 3 (acknowledging that AR 190-8 "contemplat[es] an international armed conflict between two warring nations" and that the conflict during which he was detained is not "a conventional war between two nations"). Additionally, Petitioner does not and cannot qualify as an "other detainee" under Army Regulation 190-8. See Opp. at 27 & n.22; compare Department of Defense Directive 2310.01E, ¶ 3(a) (Aug. 19, 2014) (detainees who "at a minimum" must be afforded the protections described in the directive, including those set forth in Common Article 3) with id. ¶ 3(g) (detainees who "enjoy protections and privileges beyond the minimum standards of treatment established in this directive"). Accordingly, Petitioner's alternative request for review by a Mixed Medical Commission is not appropriate.

Please be advised that the Government continues to pursue appropriate dispositions for the detainees still at Guantanamo Bay, based on the facts and circumstances of each case and consistent with our national security interests.

Sincerely,



Daniel M. Barish
Trial Attorney