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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SHARQAWI AL HAJJ (ISN 1457),

Petitioner,

v.

DONALD J. TRUMP, *et al.*,

Respondents.

Case No. 09-cv-745 (RCL)

**EMERGENCY MOTION FOR STATUS CONFERENCE TO REPORT
PETITIONER'S RECENT SUICIDE ATTEMPT AND OBTAIN DECISION ON
PENDING EMERGENCY MOTION FOR INDEPENDENT MEDICAL RELIEF**

Petitioner Sharqawi Al Hajj, by and through his counsel, moves for an immediate status conference to alert the Court to a suicide attempt by Petitioner on August 19, 2019, where he cut his wrists with a piece of glass during a telephone call with his counsel, and urge the relief he sought nearly two years ago in his pending Emergency Motion for an Independent Medical Evaluation and Medical Records. In that motion, and in subsequent declarations filed in support of it, Petitioner documented the steady deterioration of his mental health, which has now reached the crisis point of concrete suicidal ideation and planning. Independent medical experts with whom Petitioner's counsel preliminarily consulted this week have characterized Petitioner as being in a state of "active suicidality."¹

¹ Should the court schedule a status conference, Petitioner would provide expert declarations sufficiently in advance so that the Court and the government have a fuller understanding of the grave risks at stake.

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It is eminently clear that Petitioner's life and health are concretely, imminently at risk, and that he requires immediate, effective medical and psychiatric care, which is not possible in Guantanamo for many of the same reasons Petitioner documented in his underlying medical motion. These include a fundamental distrust of his care – which is even more of an obstacle to the provision of effective psychiatric care – and the inability of his doctors to effectuate their recommendations for Petitioner because of ultimate veto power by non-medical authorities.

It is thus imperative that an independent physician with whom Petitioner can build trust be permitted to meet with him in Guantanamo in order to evaluate his current medical condition and needs, including by reviewing Petitioner's medical and psychiatric records, as an interim step to preserving his life and right of access to this Court, where he is currently litigating a motion for release and intends in the coming weeks to argue additional grounds for dispositive relief. A trusted outside provider must be part of any emergency response if it is to try to be effective and meaningful in preventing further harm. The risks could not be higher with anything less.

If a status conference would not appropriately benefit the Court, Petitioner requests an emergency hearing on the merits of his pending medical motion so that he can present a complete picture of his present condition and the motion can be decided on that basis. Petitioner further requests that the Court order the government to provide to Petitioner's counsel and consulting experts, any detainee suicide prevention protocols that are in place at Guantanamo.

Petitioner's counsel has consulted with the government about this motion. According to the government, as Respondents noted in response to Petitioner's previous Motion for a Status Conference, Petitioner remains under the care of Joint Task Force-Guantanamo medical personnel and is receiving appropriate medical and psychological treatment. Consequently,

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Respondents' position remains that a status conference is not needed, but they do not intend to otherwise formally oppose this request. Additionally, Respondent's remain opposed to Petitioner's Emergency Motion for an Independent Medical Examination and Medical Records for the reasons stated in their opposition to that motion.

In support of the instant motion, Petitioner states the following:

1. Petitioner is a 45 year-old man from Yemen. He has been in Guantanamo since 2004 without charge, following over two years in CIA sites in Jordan and Afghanistan. He has been designated for continuing detention by Periodic Review Boards under the Trump administration, despite evidence that Petitioner is by now physically and emotionally decrepit, and would be willing to accept release from Guantanamo on any number of terms set by the government. The government has no plan to charge him. He faces perpetual detention without charge.

2. On September 6, 2017, Petitioner filed an Emergency Motion for an Independent Medical Evaluation and Medical Records, after he collapsed in his cell following a hunger strike and was hospitalized in an acute care unit in Guantanamo (Dkt. No 1880). The motion detailed that Petitioner suffers from severe symptoms requiring medication, including acute abdominal and urinary pain, extreme weakness and fatigue, and recurring jaundice, which are exacerbated by his hunger strikes and food refusals. It further explained the challenges to effective medical care of Petitioner in Guantanamo, including his distrust of his care, which has kept him from "talking to [his providers]" and "telling them the truth" about his health, and the inability of his providers to implement their medical recommendations for his care, because effectuating medical recommendations for detainees can depend on approval by non-medical prison authorities. *Id.* Ex. A (Decl. of Pardiss Kebriaci, ¶ 7). The motion was supported by

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declarations by two independent medical and psychiatric experts who strongly recommended that Petitioner be permitted independent medical and psychiatric assessments because of serious risks to his physical and psychological health. *See id.* Ex. B (Decl. of Dr. Robert L. Cohen); *see* Reply in Support of Petr's Emergency Motion, Ex. 1 (Supp. Decl. of Dr. Jess Ghannam).

3. Petitioner's physical health has continued to deteriorate since then. He has been hospitalized twice in the past month alone. Ex. A, Declaration of Pardiss Kebriaei, ¶ 4. After a hospitalization earlier this month after he stopped eating and drinking water, his doctor in Guantanamo told him, "you're getting worse and worse" and "soon we may not be able to control your health situation." *Id.*

4. Alongside Petitioner's physical condition, Petitioner's mental health and ability to cope have been in serious decline. Petitioner's counsel alerted the government and this Court to growing concerns about Petitioner's mental state on October 25, 2018, after a series of particularly distressed communications with Petitioner where he said he no longer cared about any harm he might do to himself. *See* Motion for Status Conference (Dkt. No. 1919-1), Ex. A (Letter to JTF-GTMO and JDG Commanders, dated Sept. 28, 2018). In the context of counsel's work with Petitioner over several years, such expressions were new and stood out as cause for concern.

5. Petitioner's statements turned suicidal last month. On July 24, 2019, Petitioner filed a renewed motion for a status conference to urge the relief in his pending request for independent medical care, following a telephone call with his counsel where he made repeated, specific statements about wanting to "cut my nerves to make myself bleed ... this weekend," and wanting to "try to kill myself," because "for how long can I be patient." Petr's Renewed Motion for Status Conference (Dkt. No. 1923-1). Counsel alerted Guantanamo to a risk of imminent

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harm to Petitioner. *Id.* Ex. A (Letter to JTF-GTMO and JDG Commanders, dated July 24, 2019).

[REDACTED]

6. On August 19, 2019, during the course of a follow-up telephone call between Petitioner and his undersigned counsel, Petitioner cut his wrists with a piece of broken glass. Kebriaei Decl. ¶ 5. Petitioner stated that the cutting drew blood. *Id.* There appeared to be utter confusion for several minutes about what was going on. *Id.* ¶ 6.

[REDACTED]

[REDACTED] Petitioner appeared “to be trying to injure himself.” *Id.* Petitioner stated to counsel that he was “sorry for doing this but they treat us like animals,” and “I am not human in their eyes.” *Id.* ¶ 7.

7. Following the August 19 call, counsel consulted with two independent physicians who characterized Petitioner as having moved from suicidal ideation to “active planful suicidability” and as presenting “the highest level of risk.” *Id.* ¶ 8.

8. Putting aside the question of whether and to what extent health recovery is even possible for Petitioner at this stage of physical and psychological degradation, Petitioner requires immediate, effective medical and psychiatric care, at a minimum as part of an emergency response to his suicide attempt. Without baseline trust in his providers, or his providers’ ability to implement their recommendations, the provision of such care by Guantanamo is impossible. During the call on August 19, Petitioner stated, for example, that Petitioner had been moved to a Behavioral Health Unit in Guantanamo after his suicidal statements, where he was held in harsh, isolating conditions, despite being told by his doctor that the doctor had recommended against the move. *Id.* ¶ 3. In the unit, Petitioner began protesting by refusing to drink water for two

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days. *Id.* By the third day he began urinating blood and was in the hospital. *Id.* After his discharge, Petitioner was placed in a cell that felt freezing cold to Petitioner because of his frail condition, and was denied his doctors' recommendations for a warm blanket and warm clothes. *Id.* In protest, he stopped drinking water again. *Id.*

9. Petitioner has identified a security-cleared psychiatrist who has served as an expert consultant in other Guantanamo detainee cases and would be willing to travel to Guantanamo in short order to evaluate Petitioner. *Id.* ¶ 9. Any independent medical evaluation of Petitioner should include review, at a minimum, of medical and psychiatric records relating to Petitioner's suicide attempt, including any treatment, assessments or other care following Petitioner's suicidal statements on July 24, 2019, to the present, and any Guantanamo protocols relating to detainee suicide prevention.

CONCLUSION

Petitioner is in crisis and requires immediate, effective emergency medical and psychiatric care, which Guantanamo cannot provide. The Court should schedule an immediate status conference to be apprised of the latest developments and resolve Petitioner's pending emergency motion in favor of granting relief. Petitioner should be evaluated immediately by an independent physician he trusts, and have access to Petitioner's medical records from at least July 24, 2019, to the present date, as well as Guantanamo protocols relating to detainee suicide prevention.

Dated: New York, New York
August 22, 2019

/s/ Pardiss Kebriaci
Pardiss Kebriaci (pursuant to LCvR 83.2(g))
Baher Azmy

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Exhibit A

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**DECLARATION OF PARDESS KEBRIAIEI IN SUPPORT OF
PETITIONER SHARQAWI AL HAJJ**

1. I am counsel for Sharqawi Al Hajj, a 45 year-old man from Yemen who has been imprisoned in Guantanamo since 2004 without charge.

2. On August 19, 2019, I had an unsecure telephone call with Mr. Al Hajj. His voice sounded extremely weak and he spoke with great effort. The call was the first time I had spoken to Mr. Al Hajj since July 24, 2019, when he stated that he wanted to "cut his nerves to make himself bleed" and wanted to "try to kill himself." I had requested three separate calls in the interim, none of which took place. I was told that Mr. Al Hajj "refused" two of the calls, and had a medical appointment during another call. When Mr. Al Hajj and I had spoken on July 24, I told him that I would be scheduling frequent follow-up calls out of concern for his health. He told me that he would accept my calls if he felt able.

3. Mr. Al Hajj spent the first part of the call on August 19 describing events over the past several weeks. He told me that following our call on July 24, he was moved to a Behavioral Health Unit, where he was held in isolation, and denied basic items such as a pillow. He told me

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that his doctor had recommended against the move. Once in the unit, Mr. Al Hajj began protesting by refusing to eat or drink water. After two days of this, he began urinating blood and had to be admitted to the detainee hospital. After his discharge, he was moved to a freezing cold cell and denied a warm blanket and warm clothes recommended by his doctors because of his frail condition. In protest, he stopped drinking water again.

4. This was Mr. Al Hajj's second hospitalization in a month. His doctor told him, "you're getting worse and worse" and "soon we may not be able to control your health situation."

5. Partway into the call, I asked Mr. Al Hajj how he was feeling emotionally. He told me that he had just cut his wrists using a piece of glass during our call. He said he was bleeding "but my body doesn't have any liquid left."

6. [REDACTED]

[REDACTED] There were several minutes of utter confusion where

[REDACTED] nor I understood what was happening. [REDACTED]

[REDACTED] Mr. Al Hajj appeared "to be trying to injure himself."

7. Mr. Al Hajj told me he was "sorry for doing this but they treat us like animals" and "I am not human in their eyes."

8. I consulted with two independent mental health experts following the call, Dr. Jess Ghannam, a Clinical Professor of Psychiatry and Global Health Sciences in the School of Medicine at the University of California-San Francisco, and Dr. Kate Porterfield, a Senior Psychologist at the Bellevue/NYU Program for Survivors of Torture at Bellevue Hospital in New York City, both of whom are familiar with my unclassified notes of Mr. Al Hajj's health. Dr.

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Porterfield stated that Mr. Al Hajj had shown “active planful suicidability” and, in moving from suicidal ideation to attempt, presented the “highest level of risk.” Dr. Ghannam stated that Mr. A Hajj appeared “on the brink” and “easily could commit suicide.” He stated that effective medical care for Petitioner in Guantanamo is impossible, in part because of the fundamental need for trust in the provider-patient relationship, particularly for psychiatric care.

9. Dr. Ghannam is a security-cleared physician who has previously served as an expert consultant in Petitioner’s case and would be available to visit Petitioner in Guantanamo in short order.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 22, 2019
New York, NY

/s/ Pardiss Kebriaei
Pardiss Kebriaei