

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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US DISTRICT & BANKRUPTCY
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RECEIVED

SAMI ABDULAZIZ ALLAITHI
Shubraqass, Tanta
Egypt

Plaintiff,

v.

DONALD RUMSFELD
Fmr. Secretary of Defense
Department of Defense
1000 Defense Pentagon
Washington D.C. 20301-1000;

GEN. RICHARD MYERS
Fmr. Chairman, Joint Chiefs of Staff
9999 Joint Chiefs of Staff Pentagon
Washington, D.C. 20318;

GEN. JAMES T. HILL
Fmr. Commander, United States Southern
Command
c/o United States Army
Army Pentagon
Washington, D.C. 20310-0200;

GEN. BANTZ CRADDOCK
Fmr. Commander, United States Southern
Command
c/o United States Army
Army Pentagon
Washington, D.C. 20310-0200;

MAJ. GEN. MICHAEL LEHNERT
Fmr. Commander Joint Task Force-160
Guantánamo Bay Naval Base, Cuba
c/o United States Marines
Marine Pentagon
Washington, D.C.;

MAJ. GEN. MICHAEL E. DUNLAVEY
Fmr. Commander, Joint Task Force-GTMO

Civil Action No. ____

Fmr. Commander, Joint Task Force-170)
Guantánamo Bay Naval Base, Cuba)
c/o United States Army)
Army Pentagon)
Washington, D.C. 20310-0200;)
)
MAJ. GEN. GEOFFREY MILLER)
Fmr. Commander, Joint Task Force-GTMO)
Guantánamo Bay Naval Base, Cuba,)
c/o United States Army)
Army Pentagon)
Washington, D.C. 20310-0200;)
)
BRIG. GEN. JAY HOOD)
Fmr. Commander, Joint Task Force, GTMO)
Guantánamo Bay Naval Base, Cuba)
c/o United States Army)
Army Pentagon)
Washington, D.C. 20310-0200;)
)
COL. TERRY CARRICO)
Fmr. Commander, Camp X-Ray)
Guantánamo Bay Naval Base, Cuba,)
c/o United States Army)
Army Pentagon)
Washington, D.C. 20310-0200;)
)
COL. ADOLPH MCQUEEN)
Fmr. Commander, Joint Detention Operations)
Group (JDOG))
Guantánamo Bay Naval Base, Cuba)
c/o United States Army)
Army Pentagon)
Washington, D.C. 20310-0200;)
)
BRIG. GEN. NELSON J. CANNON)
Fmr. Commander, Joint Detention Operations)
Group (JDOG))
Guantánamo Bay Naval Base, Cuba,)
c/o United States Army)
Army Pentagon)
Washington, D.C. 20310-0200;)
)
COL. MIKE BUMGARNER)
Fmr. Commander, Joint Detention Operations)
Group (JDOG))

Guantánamo Bay Naval Base, Cuba)
c/o United States Army)
Army Pentagon)
Washington, D.C. 20310-0200;)
))
ESTEBAN RODRIGUEZ)
Director, Joint Intelligence Group)
Guantánamo Bay Naval Base, Cuba)
c/o Department of Defense)
Defense Pentagon)
Washington, D.C. 20301-1000;)
))
and)
))
JOHN DOES 1-100, individuals involved in the)
abuses of Plaintiff at Kandahar and)
Guantánamo;)
))
All in their individual capacities;)
))
Defendants.)
_____)

COMPLAINT

Plaintiff Sami Abdulaziz Allaiithi (“Plaintiff”) respectfully submits this Complaint.

PRELIMINARY STATEMENT

1. Plaintiff was detained without charge and without any reasonable cause for nearly four years at U.S. military bases in Afghanistan and Guantánamo Bay. He was denied due process, and the ability to practice freely his religion, and was subjected to coercive interrogations and acts of physical and mental abuse, including a confluence of acts amounting to torture.

2. As a foreigner in Afghanistan and Pakistan in 2001 or 2002, in the fog of war and with the U.S. offering generous bounties for the capture of alleged terrorists, Plaintiff was wrongfully detained by Pakistani officials and shortly thereafter transferred to U.S. custody. From his earliest interactions with U.S. soldiers and interrogators, Plaintiff was subjected to

physical, mental and religious abuse carried out by U.S. soldiers and/or civilians who were under the command authority of officials in the Department of Defense.

3. Plaintiff suffered such severe abuse while in U.S. detention that he is unable to walk and is relegated to a wheelchair for mobility. He walked independently prior to his imprisonment in U.S. custody.

4. Plaintiff was released without charge, and indeed after having been classified as a non-enemy combatant. He continues to suffer the physical and mental effects of his detention, abuse and torture, and the stigma of his having been detained in Guantánamo.

5. Although the U.S. government detained him for nearly four years, the U.S. government never classified Plaintiff as an enemy combatant through a Combatant Status Review Tribunal or any other procedure, and never filed any charges against him. Indeed, Plaintiff was classified as a *non-enemy* combatant by the U.S. military in 2004 or 2005; yet he continued to be detained and abused for months subsequent to this classification.

6. Defendants finally transferred Plaintiff from Guantánamo to Egypt in October 2005.

7. As a result of the physical and psychological ailments he continues to suffer, and the stigma associated with his detention at Guantánamo, Plaintiff has been unable to regain employment subsequent to his return. He is dependent entirely on the support of his family.

8. Plaintiff brings this action for declaratory relief, and for compensatory and punitive damages against Defendants Donald Rumsfeld, Gen. Richard Myers, Gen. James T. Hill, Gen. Bantz Craddock, Maj. Gen. Michael Lehnert, Maj. Gen. Michael Dunlavey, Maj. Gen. Geoffrey Miller, Brig. Gen. Jay Hood, Col. Terry Carrico, Col. Adolph McQueen, Brig. Gen. Nelson Cannon, Col. Mike Bumgarner, Esteban Rodriguez and John Does 1-100 for their

responsibility for the torts committed against Plaintiff in violation of domestic and international law. Defendants exercised command responsibility over, conspired with, aided and abetted subordinates or persons acting in concert with the U.S. officials, and/or directly or indirectly participated in the commission of the abusive and illegal practices alleged herein, including prolonged arbitrary detention, torture, cruel, inhuman or degrading treatment, violation of religious rights, and denial of due process in Guantánamo and Kandahar, Afghanistan. Plaintiff additionally institutes this action against soldiers, interrogators and guards, Does 1-100, who exercised command responsibility over, conspired with, aided or abetted subordinates and/or directly or indirectly participated in Plaintiff's abduction, detention, interrogation, torture, and/or abusive treatment. Accordingly, Defendants are liable under domestic and international law for Plaintiff's injuries, pain and suffering.

JURISDICTION AND VENUE

9. This Court has jurisdiction over Plaintiff's claims under 28 U.S.C. § 1331; 28 U.S.C. § 1343; 28 U.S.C. §1350; 42 U.S.C. § 1985(3); and directly under the United States Constitution.

10. Venue is proper pursuant to 28 U.S.C. § 1391(a)(3) and 28 U.S.C. § 1391(b)(2).

PARTIES

11. Plaintiff Sami Abdulaziz Allaithi is an Egyptian who was working as a university English professor in Kabul, Afghanistan when the U.S. bombing campaign forced him to flee Afghanistan. He was captured by Pakistanis after crossing the Afghan-Pakistan border. Subsequently, the Pakistanis transferred him to U.S. custody in or around the end of 2001 or the beginning of 2002. Plaintiff brings this action, in his individual capacity, for the prolonged arbitrary detention, torture, cruel, inhuman or degrading treatment, violation of religious rights,

and denial of due process he suffered at the hands of U.S. officials and those in command authority over those officials, or persons acting in coordination with or under the control of the U.S. government, from in or around December 2001 until October 2005. On or around October 1, 2005, the U.S. government transferred Plaintiff to Cairo, Egypt. He is now unemployed, physically disabled, psychologically traumatized, and living with his family.

12. Defendant Donald Rumsfeld is a U.S. citizen residing in Illinois. Defendant Rumsfeld was the United States Secretary of Defense from January 20, 2001 until December 18, 2006, including the entire period during which the events herein described occurred. At all relevant times, Defendant Rumsfeld possessed and exercised command and control over the U.S. military and the U.S. detention facilities in Afghanistan and Guantánamo Bay. Defendant Rumsfeld is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

13. Defendant Air Force Gen. Richard Myers is a U.S. citizen residing in Virginia. From October 1, 2001 until October 1, 2005, including the entire period during which the events herein described occurred, Defendant Myers was Chairman of the Joint Chiefs of Staff. As the senior uniformed military officer in the chain of command during all relevant times, Defendant Myers possessed and exercised command and control over the U.S. military and the U.S. detention facilities at Guantánamo Bay and in Afghanistan. Defendant Myers is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

14. Defendant Army Gen. James T. Hill is a U.S. citizen and resident of Florida. From August 18, 2002 until November 9, 2004, Defendant Hill was Commander of the United States Southern Command (“SouthCom”). During his tenure, Defendant Hill possessed and exercised command and control over subordinates at the Guantánamo Bay detention facility. Defendant Hill is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

15. Defendant Army Gen. Bantz Craddock is a U.S. citizen and resident of West Virginia. From November 9, 2004 until October 18, 2006, Defendant Craddock was Commander of the United States Southern Command (“SouthCom”). During his tenure, Defendant Craddock possessed and exercised command and control over subordinates at the Guantánamo Bay detention facility. Defendant Craddock is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

16. Defendant Marine Maj. Gen. Michael Lehnert is a U.S. citizen and resident of Florida. From January 11, 2002 until March 28, 2002, Defendant Lehnert was Commander of Joint Task Force-160. In this role, Defendant Lehnert was responsible for the construction and operation of Camp X-Ray and Camp Delta at Guantánamo and responsible for the care, custody and control of detainees. During his tenure, he possessed command and control over U.S. military stationed at the detention facility at Guantánamo. Defendant Lehnert is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for,

exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

17. Defendant Army Maj. Gen. Michael Dunlavey is a U.S. citizen and resident of Pennsylvania. Defendant Dunlavey was initially Commander of Joint Task Forces-170, responsible for the coordination and implementation of interrogation efforts at Guantánamo, and later Commander of its successor Joint Task Force-GTMO, formed from the merger of JTF-160 and JTF-170 in October 2002, and responsible for operating the detention facility and conducting operations at Guantánamo. From February until November 2002, Defendant Dunlavey possessed and exercised command and control over subordinates at the detention facility at Guantánamo Bay. Defendant Dunlavey is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

18. Defendant Army Maj. Gen. Geoffrey Miller is a U.S. citizen and resident of Texas. From October 2002 until March 2004, Defendant Miller was Commander of Joint Task Force-GTMO, responsible for operating the detention facility and conducting operations at Guantánamo. During his tenure, he possessed and exercised command and control over U.S. troops stationed at Guantánamo. Defendant Miller is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

19. Defendant Army Brig. Gen. Jay Hood is a U.S. citizen and resident of South Carolina. From March 2004 until March 31, 2006, Defendant Hood was Commander of Joint

Task Force-GTMO, responsible for operating the detention facility and conducting operations at Guantánamo. During his tenure, he possessed and exercised command and control over subordinates at the U.S. detention facility at Guantánamo Bay. Defendant Hood is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

20. Defendant Army Col. Terry Carrico is a U.S. citizen and resident of Texas. From January 11, 2002 to April 28, 2002, Defendant Carrico was Commander of Camp X-Ray, the initial temporary detention facility at Guantánamo Bay. During his tenure, he possessed and exercised command and control over subordinates stationed at Guantánamo Bay. Defendant Carrico is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

21. Defendant Army Col. Adolph McQueen is a U.S. citizen and resident of Michigan, currently stationed at Fort Meade, Maryland. From November 2002 until August 2003, Defendant McQueen was the Commander of Joint Detention Operations Group (JDOG) at Guantánamo, responsible for guarding the prisoners and providing security. During his tenure, he possessed and exercised command and control over subordinate troops stationed at Guantánamo Bay. Defendant McQueen is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

22. Defendant Army Brig. Gen. Nelson Cannon is a U.S. citizen and resident of Michigan. From August 2003 to September 2004, Defendant Cannon was the Commander of Joint Detention Operations Group (JDOG) at Guantánamo, responsible for guarding the prisoners and providing security. During his tenure, he possessed and exercised command and control over U.S. military at the detention facility at Camp Delta, Guantánamo. Defendant Cannon is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

23. Defendant Army Col. Mike Bumgarner is a U.S. citizen and a resident of North Carolina. From April 2005 until March 2006, Defendant Bumgarner was the Commander of the Joint Detention Group (JDOG) at Guantánamo, responsible for guarding the prisoners and providing security. During his tenure, he possessed and exercised command and control over subordinate troops stationed at Guantánamo Bay. Defendant Bumgarner is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

24. Defendant Esteban Rodriguez is a U.S. citizen and resident of Virginia. From July 2003 until 2006, Defendant Rodriguez was the civilian Director of the Joint Intelligence Group responsible for managing intelligence-gathering operations at Guantánamo and reporting to the Commander of JTF-GTMO. During his tenure, he possessed and exercised command and control over subordinate troops stationed at Guantánamo Bay. Defendant Rodriguez is sued in his individual capacity for ordering, authorizing, condoning, creating methods and procedures for,

exercising command responsibility over, conspiring with, aiding or abetting subordinates and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged.

25. Plaintiff does not know the true names and capacities of defendants sued herein as Does 1-100 and therefore sues these defendants by fictitious names. Does 1-100 were the military and civilian personnel who ordered, authorized, condoned, created methods and procedures for, exercised command responsibility over, conspired with, aided or abetted subordinates and/or directly or indirectly participated in the abuses of Plaintiff as hereinafter alleged.

STATEMENT OF FACTS

Prolonged Arbitrary Detention, Torture and Cruel, Inhuman or Degrading Treatment by the U.S. Government in Kandahar, Afghanistan and Guantánamo

26. Since January 11, 2002, the U.S. government has detained well over 700 men on the U.S. military base in Guantánamo Bay, an area which the U.S. controls by virtue of an indefinite lease established in 1903 with the government of Cuba. Detainees have been transported to Guantánamo from around the world, including from the detention facility operated by the U.S. government at a U.S. military base in Kandahar, Afghanistan.

27. Before 2004, the U.S. government prohibited detainees at Guantánamo from having any communication with anyone aside from their guards and interrogators, and, occasionally, representatives of the International Committee of the Red Cross. Since 2004, lawyers have been permitted to interact with some detainees with limitations on their communication, as mandated by protective orders.

28. Since 2002, numerous credible accounts of serious physical and mental abuse of detainees held under U.S. control at the U.S. military bases in Kandahar and Guantánamo have

been reported. These accounts belie a systematic pattern and practice of abuses that reflect policy made at the highest levels of the U.S. government.

29. In addition to the generally abusive conditions and the specific instances of abusive treatment, all of the detainees held in these facilities have been subjected to prolonged arbitrary detention without trial. At the time Plaintiff was released from Guantánamo, none of the detainees who had been held at Guantánamo since the prison opened in January 2002 had been charged, tried or convicted of any offense.

Plaintiff's Abduction in Pakistan

30. At the invitation of his sister and her husband, a professor at an international university, Plaintiff traveled from Egypt to Pakistan in 1986 at the age of thirty to live, study, and work. In the years that followed, Plaintiff studied at a university in Pakistan and became a teacher; and later traveled to Kabul, Afghanistan to teach English and Arabic to university students. In 2001, Plaintiff – then in his mid-forties – was forced to flee the aerial bombardment of Kabul after the beginning of the U.S. war in Afghanistan. Soon after Plaintiff crossed the border into Pakistan, Plaintiff was arrested by Pakistani authorities.

31. Immediately after his initial arrest, Plaintiff was interrogated by Pakistani authorities and also, periodically, by American interrogators.

Plaintiff's Detention in U.S. Custody in Afghanistan

32. Pakistani authorities eventually transferred Plaintiff to the complete custody of U.S. soldiers. The transfer occurred in the middle of the night. U.S. forces chained Plaintiff, hooded him, and carried him by truck to a military base. When Plaintiff screamed in agony after he was pulled from a truck with his legs and hands chained and his head covered, U.S. forces

gagged him with a rope. Plaintiff was made to lie – hooded and bound – on the tarmac with other prisoners as they waited for a flight.

33. U.S. forces brought Plaintiff by airplane to the U.S. military base in Kandahar, Afghanistan in or around late 2001 or early 2002. During the flight, Plaintiff was dragged and chained to the floor of the aircraft, and tightly shackled. Plaintiff was beaten, kicked and shoved when he tried to cry out because of the immense pain he was in.

34. Upon arrival in Kandahar, Plaintiff was stripped of his clothing and left naked except for his handcuffs and his hood. In the period immediately after his arrival, Plaintiff was punched and kicked in the neck, back and elsewhere. U.S. forces eventually provided Plaintiff clothing.

35. While imprisoned in Kandahar in 2002, Plaintiff was regularly sleep-deprived as his cell was floodlit twenty-four hours a day and guards made disruptive noises during the night. Sometimes guards woke Plaintiff and others in the early hours of the morning for no clear reason.

36. On several instances, Plaintiff was subjected to violent cell movements late at night. On these occasions, many guards burst into a cell; aggressively chained Plaintiff and other detainees; and dragged the men to a different cell.

37. Detainees urinated and defecated in buckets in the cell, without privacy. During cell searches, guards forced detainees to kneel for several hours surrounded by soldiers in riot gear and with vicious dogs.

38. Plaintiff was prohibited from freely practicing his religion while detained. In the early period at Kandahar, guards prohibited Plaintiff and other detainees from praying together or aloud. Later, guards permitted prayers, but often intimidated detainees by standing over them

armed during their prayers or throwing or kicking sand at them. Detainees were prohibited from using the limited water in the cell to perform ablutions and guards did not provide any additional water for this purpose. On some occasions, guard would toss the Koran on the ground while searching the cells.

39. Plaintiff and other detainees at Kandahar were prohibited from communicating with one another or gathering in groups – small or large. Minor disciplinary infractions led to physical abuse and punishment. Detainees who were alleged to have violated a camp rule, including by communicating with another detainee or praying aloud or communally, were forced into stress positions or solitary confinement. These positions included kneeling down on gravelly asphalt with hands raised and behind the head for prolonged periods of time.

40. Plaintiff was multiple times forced into stress positions as punishment for minor alleged infractions.

41. In one instance, U.S. forces punished Plaintiff by forcing all other prisoners to the back of the cage, grabbing Plaintiff and forcing him to the ground face-down, hooding and shackling him, and dragging him into a container. U.S. forces left Plaintiff isolated in the container for three days in complete darkness.

42. Plaintiff and other detainees at Kandahar were forced to undergo a painful, intimidating and degrading ritual whenever they or anyone else in their cell was called to be interrogated. When the detainee number of the person to be interrogated was called by soldiers, all other detainees were forced to retreat to the back of the fenced-in area and kneel on the asphalt with soldiers pointing guns at them. The detainee whose number was called was forced to lie down in the middle of the cell face-down on asphalt with his hands behind his back. Soldiers then rushed into the cell, violently tied the arms and legs of the one to be interrogated, hooded

him and dragged him to the interrogator, often abusing him as they transported him by kicking, punching or hitting him. The other detainees in the cell were not permitted to move from their position at the rear of the cell until well after the person to be interrogated was removed from the cell.

43. U.S. forces sometimes punched or kicked Plaintiff during his imprisonment in Kandahar. Guards often kicked Plaintiff while they dragged him to and from interrogations. Once, he was kicked in the knee and fell to the ground.

44. During interrogations, he was sometimes forced to sit chained to the ground. Interrogators sometimes threatened Plaintiff that he would never return home or that he would be killed in Kandahar.

45. Guards or interrogators never explained to Plaintiff why he was detained during the time he was in Afghanistan or subjected him to any process.

46. After approximately one month in Kandahar, U.S. officials transported Plaintiff to Guantánamo in early 2002. Prior to Plaintiff's transfer, guards forcibly shaved Plaintiff's hair and beard. He was hooded, shackled and forced to wear blackened goggles, ear coverings, padded gloves and a hood. He was tied in the plane so that he could not freely move.

47. The flight from Kandahar to Guantánamo included a stopover at an unknown location during which Plaintiff was forcefully transferred from one plane to another. During the transfer, guards beat, kicked and punched Plaintiff. Plaintiff was not told anything about where or why the plane was stopped, or the location of his eventual destination. He was subjected to sensory deprivation during the entire journey, with extremely limited or no food and water, and limited access to toilet facilities.

Guantánamo

48. Guards subjected Plaintiff to physical abuse immediately after he arrived in Guantánamo, as he was transported from the airplane to what he believed to be a boat. He remained hooded so he could not see where he was being taken. Guards yelled at Plaintiff that he should not move, and hit him when he swayed with the movements of the vehicles in which he traveled.

49. Guards subjected Plaintiff to forced nudity and a rectal examination soon after his arrival in Guantánamo.

50. Plaintiff was among the first detainees to be transferred to Guantánamo Bay in early 2002. The U.S. government detained Plaintiff in Camp X-Ray from his arrival until on or about April 2002. The facilities in Camp X-Ray resembled animal cages—open-air cells surrounded by chain-link fencing, without water, toilets, sinks or privacy. The cells were entirely exposed to the elements—the extreme heat of Guantánamo Bay during the day and the cold during the night, with mice, rats, snakes, lizards and scorpions roaming freely into the cells.

51. Detainees were rarely permitted out of their cells for recreation. They were prohibited from communicating with one another or even looking at the guards. Detainees had a bucket in which they could defecate and a bucket from which they could drink, with water heated by the sun. They had no alternative but to defecate publicly despite cultural and religious norms prohibiting this. Detainees were subjected to the taunting of guards when they defecated because of their lack of privacy. Guards prohibited Plaintiff from covering himself with a blanket while he defecated, subjecting him to a stress position or removing his blanket if he tried. In Camp X-Ray, detainees were only permitted a mattress, blanket, slippers and Koran.

52. U.S. guards deprived Plaintiff of sleep during his confinement in Camp X-Ray through strong and continuous artificial lighting and disruptive noise. Guards forced Plaintiff and

other detainees to keep their hands and feet visible and outside of the blanket as they slept. If one hand or foot was under the blanket at night, guards forcibly woke detainees to order them to remove their hands and feet from under the blanket.

53. In Camp X-Ray, guards prohibited Plaintiff and others from praying aloud or in congregation, and interrupted prayers.

54. When guards transported Plaintiff to interrogations from Camp X-Ray, a group of guards often violently entered his cell shouting and shackled him, sometimes also hitting him. Interrogators questioned Plaintiff regularly while he was imprisoned in Camp X-Ray.

55. Subsequent to Camp X-Ray, the U.S. government detained Plaintiff in Camp Delta, the detention facility which succeeded Camp X-Ray and was completed in April 2002. During his imprisonment at Guantánamo, Plaintiff was imprisoned in Camp X-Ray, Camp Delta, Camp Four, and Camp Five.

56. Cells in Camp Delta contained toilets and sinks, yet the sinks produced yellow water not suitable for drinking. There was no air conditioning in the cells and they were extremely hot. The detainees, including Plaintiff, were subjected to regular sleep deprivation through some combination of bright external and internal lighting twenty-four hours a day, disruptive noise at night, and nighttime interrogations, transfers and cell searches. Detainees were moved between cells and cell blocks regularly and for no cognizable purpose except to provoke disorientation. Officials permitted detainees in Camp Delta so-called “comfort items” — toothbrush, toothpaste, soap, washcloth, prayer cap, two blankets, one sheet and a Koran — but these were regularly confiscated by guards for alleged disciplinary infractions.

57. Within Camp Delta were blocks for solitary confinement and, later, a psychiatric block. Those held within the solitary confinement blocks were often subjected to strong air

conditioning, and sometimes deprived of their basic essentials, including blankets and religious items. Within Delta block, the psychiatric block also contained cells in which detainees were subjected to solitary confinement. In these cells, guards sometimes punished detainees by leaving them naked, strapped to the bed and with extreme air conditioning for hours.

58. Alleged disciplinary violations at Guantánamo subjected detainees to extreme cruelty, often at the hands of the Extreme or Immediate Reaction Force (“ERF” or “IRF” teams). When ERF teams invaded a detainee’s cell, the detainee was instructed to turn around in the cell so that he was not facing the guards, kneel on the ground and place his hands on the back of his head. Four or more guards subsequently entered the cell with rubber sticks, and frequently tear gas or pepper spray, and chained the detainee’s hands and feet. ERF teams were very rough and sometimes kicked and beat the detainee. Subsequently, the teams forced the detainee to remain restrained and tied in a painful position or brought the detainee to solitary confinement.

59. Plaintiff, a man in his mid- to late-forties during his imprisonment without charge at Guantánamo, was subjected to the violence of the ERF teams more than ten times. Guards sometimes “ERF’ed” Plaintiff for such minor infractions as the order of his toiletry items in his cell or, in Camp X-Ray, for speaking to another prisoner, moving his head or not facing a particular direction. A group of guards violently burst into his cell in riot gear and chained his hands and feet, sometimes beating him in the process. Sometimes, the ERF team would leave Plaintiff bound and chained in his cell.

60. Plaintiff was subjected to a variety of physical, mental and verbal torture or cruel, inhuman or degrading treatment during interrogations. These included prolonged solitary confinement; sleep deprivation; deprivation of food, water and sanitary facilities; exposure to temperature extremes; light and sound manipulation, including the sounds of screams or crying;

beatings; threats to his life; and forced stress positions and prolonged “short-shackling” with wrists and ankles bound together and to the floor. Sometimes interrogators asked Plaintiff very basic questions about his family and his life at home; other times, they accused him of being a terrorist and belonging to Al Qaeda. On one occasion, during an interrogation at Guantánamo, an interrogator threatened Plaintiff with a gun – with the interrogator pointing a gun at him and stating that he would kill Plaintiff if he did not “tell the truth.”

61. Plaintiff was subjected to various forms of religious and cultural abuse, including forced grooming, mocking or disruption of prayer or the call to prayer, the removal of water for ablution, the removal of religious items and the desecration of his Koran or the Koran of other detainees through intentional touching, dropping, stepping on or throwing it.

62. Plaintiff was subjected to force-feeding against his will.

63. Plaintiff was repeatedly held in solitary confinement.

64. Plaintiff underwent psychological deterioration while at Guantánamo, becoming increasingly anxious and suicidal.

65. Plaintiff also suffered severe physical deterioration at Guantánamo that was either instigated and/or aggravated by the physical abuse of U.S. forces while he was a captive in Afghanistan and Guantánamo.

66. While Plaintiff entered Guantánamo walking, he left in a wheelchair. During his detention, he repeatedly sought medical care that was not provided. He was forced to go to recreation against his will and physical ability. When he resisted, and was unable to walk, he was dragged by force to the recreation yard and dropped on the floor. On one occasion, guards attempted to drag Plaintiff by force from the isolation room in the hospital. The pulling of the guards caused indescribable pain and left Plaintiff immobile and temporarily out of

consciousness. When he regained consciousness, his mobility had significantly decreased. He faced pressure to undergo a major operation, but Plaintiff refused because he did not trust that the medical professionals were acting in his interests.

67. Plaintiff did not undergo any administrative, judicial or military hearing until 2004 after then Deputy Defense Secretary Paul Wolfowitz ordered the establishment of Combatant Status Review Tribunals (“CSRTs”) which purported to provide an administrative process for determining whether a prisoner is an “enemy combatant.” The CSRTs lack the most basic elements of due process, including the right to present evidence, to know the evidence in the accusation, to have independent counsel, and to have the case heard by an independent body.

68. Plaintiff’s CSRT did not occur until November 2004, after he had been imprisoned in Guantánamo for more than two and a half years. Despite the biased procedure, Plaintiff’s CSRT classified him as a *non-enemy* combatant. Nonetheless, Plaintiff was held for ten additional months after his CSRT before his transfer out of Guantánamo. In total, Plaintiff was arbitrarily detained by U.S. forces for more than forty-five months.

69. Plaintiff was denied access to family, visitors and, prior to 2005, legal counsel.

Plaintiff’s Transfer from U.S. Custody

70. On October 1, 2005, U.S. officials transferred Plaintiff to the custody of the Egyptian government.

71. Plaintiff has ongoing physical, psychological and social problems resulting from his prolonged and debilitating detention in U.S. custody. He has continuing medical problems stemming from his detention and he remains traumatized by his experiences. His persistent health problems include total immobility and a back fracture; severe pain; heart palpitations; deteriorated eyesight; and constant anxiety, difficulty concentrating and a lack of appetite.

Further, tainted by the stigma of Guantánamo, both Plaintiff and his family have limited job prospects.

GENERAL ALLEGATIONS

Defendants' Development and Implementation of a Plan of Prolonged Arbitrary Detention, Torture and Abuse of Detainees

72. The acts described herein were carried out under the actual or apparent authority or color of law of the United States.

73. At all relevant times, the named Defendants possessed and exercised command and control over subordinates at the detention facilities in which Plaintiff was housed at Kandahar, Afghanistan and Guantánamo Bay. Defendants also acquiesced in and/or permitted persons or groups to act in concert with U.S. officials to commit the abuses described herein.

74. At all relevant times, the named Defendants had the legal authority and practical ability to exert control over subordinates that participated in the prolonged arbitrary detention, torture, cruel, inhuman or degrading treatment, violations of religious rights, and deprivations of due process of the Plaintiff. Defendants' command over subordinate forces included the authority and responsibility to give orders to, set policy for, and manage the affairs of forces under their control, and to remove and discipline personnel who were violating the rights of the Plaintiff.

75. Defendants were aware, or should have been aware, that Plaintiff was subject to prolonged arbitrary detention, torture, cruel, inhuman or degrading treatment, violations of his religious rights, and deprivations of due process while imprisoned at Kandahar and Guantánamo. Defendants took no steps to prevent the infliction of torture or these other forms of mistreatment to which Plaintiff was subject; nor did Defendants investigate and punish the perpetrators of these abuses. By so doing, Defendants failed in their legal obligations as commanders, under

domestic and international law, to ensure that subordinates never perpetrate abuses against detainees in the custody of the U.S. military.

76. Instead, Defendants authorized, mandated, implemented, encouraged, condoned, acquiesced in and/or failed in their command obligations to prevent the infliction of abuses, including violations of Plaintiff's religious rights and the right to due process.

77. Defendant Rumsfeld and other defendants in the chain of command intended for the techniques to be practiced on Plaintiff, or knew, or should have known, of the techniques practiced on Plaintiff – including beatings, short-shackling, sleep deprivation, subjection to extremes of cold or heat and light and dark, hooding, stress positions, isolation, forced shaving, forced nakedness, intimidation with vicious dogs and threats, many in concert with each other. Defendants failed to take all necessary measures to investigate and prevent these abuses, or to punish personnel under their commands for committing these abuses.

78. Defendants intended, were aware, or should have been aware, that prolonged arbitrary detention violates U.S. law, customary international law and international treaties to which the United States is a party. Defendants authorized, carried out, condoned, and/or directly or indirectly implemented Plaintiff's prolonged arbitrary detention.

79. Defendants intended, were aware, or should have been aware, that torture and cruel, inhuman or degrading treatment of detainees in Kandahar and Guantánamo Bay was occurring in violation of clearly established domestic and international law. Defendants failed to take all necessary measures to investigate and prevent these abuses, or to punish personnel under their commands for committing these abuses.

80. Decisions and acts by Defendants ordering, authorizing, implementing, facilitating, encouraging, condoning, turning a blind eye to, acquiescing in and/or committing the

alleged acts reached from the highest levels of the U.S. Government down the military chain of command. On information and belief, approval for alleged acts of torture, cruel, inhuman and degrading treatment, and violations of religious rights emanated under color of law from orders, approvals, and omissions occurring in the Pentagon, numerous government agencies headquartered in the District of Columbia, and the offices of Defendant Rumsfeld.

81. In October 2002, Defendant Dunlavey requested permission of Defendant Rumsfeld to make interrogations in Guantánamo more aggressive. Defendant Miller, who assumed command from Defendant Dunlavey, also pushed for the use of more aggressive techniques. Defendant Rumsfeld thereafter approved numerous interrogation methods to which Plaintiff was subjected that are clearly illegal under U.S. law. On or around December 2, 2002, Defendant Rumsfeld signed a then-classified memorandum approving hooding, prolonged forced “stress positions” for up to four hours, forced nudity, intimidation with dogs or other “exploitation of phobias,” prolonged interrogations up to twenty hours, deprivation of light, forced grooming, isolation, and “mild, non-injurious physical contact.” In January, 2003, he rescinded the blanket approval of these methods which violate domestic and international law, but the methods could be carried out, based on specific approval.

82. In April 2003, after a “Working Group Report” recommended the continued use of abusive interrogation methods, Defendant Rumsfeld issued a new set of recommended techniques, requiring his explicit approval for four techniques that violated the Geneva Conventions and/or customary international law, including the use of intimidation, removal of religious items, threats and isolation. The April 2003 report, however, officially withdrew approval for unlawful actions that had been ongoing for months, including hooding, forced nakedness, shaving, stress positions, use of dogs, and “mild, non-injurious physical contact.”

Nevertheless, these illegal practices continued to be employed in Guantánamo, which Defendants intended, or knew or should have known were occurring. Defendants failed in their command obligation to prevent these abuses and investigate and punish those responsible.

83. At all relevant times, co-Defendants Rumsfeld, Myers, Hill, Craddock, Lehnert, Dunlavey, Miller, Hood, Carrico, McQueen, Cannon, Bumgarner, and Rodriguez, at their respective levels in the military chain of command with command responsibility for the practices at Guantánamo, authorized, mandated, implemented, encouraged, condoned, acquiesced in, turned a blind eye to, or failed in their command obligations to prevent the torture and cruel, inhuman or degrading treatment that took place at Guantánamo.

84. Co-Defendant Does 1-100 implemented the prolonged arbitrary detention, torture and cruel, inhuman or degrading treatment, violations of religious rights, and deprivations of due process at Kandahar, Afghanistan and Guantánamo.

85. Defendants intended, knew or should have known that the practices that they ordered, authorized, mandated, implemented, encouraged, condoned, acquiesced in, turned a blind eye to, for which they had command responsibility, and/or directly or indirectly implemented violated clearly established international and domestic law. Further, Defendants failed in their duties to investigate, prevent and punish violations of international and domestic law committed by members of the U.S. military, and/or persons or groups acting in concert with them. These actions and omissions were outside the scope of their lawful authority. Through Defendants' actions, omissions, and failures of command, they created a climate of impunity in which subordinate soldiers were given a green light to terrorize Plaintiff and carry out atrocious acts of torture and cruel, inhuman or degrading treatment, violations of religious rights, and deprivations of due process.

86. At all relevant times, the named Defendants and the Doe defendants did act in concert with the intent to punish and/or disadvantage Plaintiff because of his religion by subjecting Plaintiff to prolonged arbitrary detention, torture, cruel, inhuman or degrading treatment, violations of religious rights, and denial of process.

INJURIES

87. Because of the wrongful acts of Defendants, as set forth above and herein, Plaintiff was caused the following injuries, among others:

- A. Physical injuries, including those which are continuing and severe;
- B. Emotional and psychological injuries, including those which are continuing and severe;
- C. Loss of earnings and earning capacity;
- D. Loss of interfamilial relations;
- E. Medical expenses, past and future;
- F. Humiliation, embarrassment, degradation and public mortification, disgrace and shame.

CAUSES OF ACTION

Count I Alien Tort Statute Prolonged Arbitrary Detention

88. Plaintiff repeats and re-alleges the allegations contained in all preceding paragraphs of this complaint as if fully set forth herein.

89. The acts described herein constitute prolonged arbitrary detention of Plaintiff in violation of the law of nations under the Alien Tort Statute, 28 U.S.C. § 1350, in that the acts violated customary international law prohibiting prolonged arbitrary detention as reflected,

expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

90. Defendants are liable for said conduct in that they, acting under color of law and their authority as federal officers and/or in concert with U.S. officials, committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and abetted, conspired to and/or directly or indirectly participated in bringing about the prolonged arbitrary detention of Plaintiff. Defendants intended, knew or should have known, that the prolonged arbitrary detention was being committed by their subordinates and failed to prevent those abuses or punish those responsible.

91. As a result of Defendants' unlawful conduct, Plaintiff was deprived of his freedom, separated from his family and forced to suffer severe physical and mental abuse, and is entitled to monetary damages and other relief to be determined at trial.

Count II
Alien Tort Statute
Torture

92. Plaintiff repeats and re-alleges the allegations contained in all preceding paragraphs of this complaint as if fully set forth herein.

93. The acts described herein were inflicted deliberately and intentionally for purposes which included, among others, punishing, coercing or intimidating Plaintiff. Torture is not permitted as a legitimate government function under any circumstances.

94. These acts included *inter alia* repeated severe beatings; the withholding of food, water, and necessary medical care; sleep deprivation; lack of basic hygiene; intentional exposure to extremes of heat and cold, and to the elements; sensory deprivation and sensory overload;

prolonged isolation; forced nudity and sexual humiliation; intimidation with unmuzzled dogs; and death threats. These acts, and others, were frequently carried out in concert with each other.

95. The acts described herein constitute torture in violation of the law of nations under the Alien Tort Statute, 28 U.S.C. § 1350, in that the acts violated customary international law prohibiting torture as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities.

96. Defendants are liable for said conduct in that Defendants set the conditions, directly and/or indirectly facilitated, committed, ordered, acquiesced, confirmed, ratified, had command responsibility for, aided and abetted and/or conspired together to bring about the torture of Plaintiff. Defendants intended, knew or should have known, that the torture was being committed by their subordinates and failed to prevent those abuses or punish those responsible.

97. Plaintiff suffered severe immediate physical and mental abuse as a result of the acts alleged herein. Plaintiff continues to suffer profound physical and mental harm from the acts alleged herein.

98. Plaintiff is entitled to monetary damages and other relief to be determined at trial.

Count III
Alien Tort Statute
Cruel, Inhuman or Degrading Treatment or Punishment

99. Plaintiff repeats and re-alleges the allegations contained in all preceding paragraphs of this complaint as if fully set forth herein.

100. The acts described herein were intended and the effect of grossly humiliating and debasing Plaintiff and forcing him to act against his will and conscience, inciting fear and anguish, and breaking his physical and moral resistance.

101. These acts included *inter alia* repeated severe beatings; the withholding of food, water, and necessary medical care; sleep deprivation; lack of basic hygiene; intentional exposure to extremes of heat and cold, and to the elements; sensory deprivation and sensory overload; prolonged isolation; forced nudity; sexual humiliation; intimidation with unmuzzled dogs; and death threats.

102. The acts described herein constitute cruel, inhuman or degrading treatment or punishment in violation of the law of nations under the Alien Tort Statute, 28 U.S.C. § 1350, in that the acts violated customary international law prohibiting cruel, inhuman or degrading treatment or punishment as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities.

103. Defendants are liable for said conduct in that Defendants set the conditions, directly and/or indirectly facilitated, committed, ordered, acquiesced, confirmed, ratified had command responsibility for, aided and abetted and/or conspired together in bringing about the cruel, inhuman or degrading treatment or punishment of Plaintiff. Defendants intended for these abuses to occur, or knew or should have known, that these abuses were occurring and failed to prevent these abuses or punish those responsible.

104. Plaintiff suffered severe immediate physical and mental harm as a result of the acts alleged herein. Plaintiff continues to suffer profound physical and mental trauma from the acts alleged herein.

105. Plaintiff is entitled to monetary damages and other relief to be determined at trial.

Count IV
Alien Tort Statute and 28 U.S.C. 1331
Geneva Conventions

106. Plaintiff repeats and re-alleges the allegations contained in all preceding paragraphs of this complaint as if fully set forth herein.

107. As detailed herein, Plaintiff was held arbitrarily, tortured and otherwise mistreated during his detention in violation of specific protections of the Third and Fourth Geneva Conventions, including but not limited to Article 3 common to all four Geneva Conventions. Common Article 3 prohibits, among other things, “outrages upon personal dignity, in particular, humiliating and degrading treatment.”

108. Violations of the Geneva Conventions are direct treaty violations as well as violations of customary international law.

109. Defendants are liable for such conduct directly and insofar as they directed, ordered, confirmed, ratified, had command responsibility for, aided and abetted and/or conspired together to commit violations of the Geneva Conventions and customary international law. Defendants intended to violate the Geneva Conventions and customary international law, or knew or should have known that the violations of the Geneva Conventions and customary international law were occurring and failed to prevent these abuses or punish those responsible.

110. As a result of Defendants’ violations of the Geneva Conventions and customary international law, Plaintiff is entitled to monetary damages and other relief to be determined at trial.

Count V
U.S. Constitution
First Amendment: Freedom of Religion

111. Plaintiff repeats and re-alleges the allegations contained in all preceding paragraphs of this complaint as if fully set forth herein.

112. Defendants have adopted, promulgated, and/or implemented policies and practices intended to deny Plaintiff the ability to practice and observe his religion. These policies and practices have included, among other things, the visitation of verbal and physical abuse upon Plaintiff, and the deliberate denial of all means by which he could maintain his religious practices, including daily prayer requirements.

113. By such mistreatment, Defendants, acting under color of law and their authority as federal officers, have intentionally or recklessly violated Plaintiff's right to free exercise of religion guaranteed under the First Amendment to the United States Constitution.

114. Plaintiff has no effective means of enforcing his First Amendment rights other than by seeking declaratory and other relief from the Court.

115. As a result of Defendants' unlawful conduct, Plaintiff has suffered emotional distress, humiliation, embarrassment, and monetary damages.

Count VI
U.S. Constitution
Fifth Amendment: Due Process

116. Plaintiff repeats and re-alleges the allegations contained in all preceding paragraphs of this complaint as if fully set forth herein.

117. Defendants' actions alleged herein against Plaintiff violated the Fifth Amendment of the United States Constitution through depriving Plaintiff of his liberty and subjecting him to behavior which "shocks the conscience."

118. The arbitrary and baseless detention of Plaintiff without charge for more than two years constitutes a deprivation of liberty without due process, in direct violation of his Fifth Amendment rights.

119. The cruel, inhuman, and degrading conditions of Plaintiff's incarceration violated his substantive right to due process.

120. Defendants' refusal to permit Plaintiff to consult with counsel, and to have access to tribunals to challenge the fact and conditions of his confinement, constitute violations of Plaintiff's procedural right to due process.

121. Defendants were acting under the color of the law of the United States at all times pertinent to the allegations set forth above.

122. Plaintiff suffered severe physical and mental injuries as a result of Defendants' violations of the Fifth Amendment. Plaintiff also suffers present and future economic damage.

123. The actions of Defendants are actionable under *Bivens v. Six Unknown Named Federal Agents*, 450 U.S. 388 (1971).

124. Plaintiff is entitled to monetary damages and other relief to be determined at trial.

Count VII
Religious Freedom Restoration Act
Religious Interference

125. Plaintiff repeats and re-alleges the allegations contained in all preceding paragraphs of this complaint as if fully set forth herein.

126. Defendants' actions alleged herein inhibited and constrained religiously motivated conduct central to Plaintiff's religious beliefs.

127. Defendants' actions imposed a substantial burden on Plaintiff's abilities to exercise and express his religious beliefs.

128. Defendants regularly and systematically engaged in practices specifically aimed at disrupting Plaintiff's religious practices. These acts included forced nudity; forced grooming; desecration of the Koran; denial of the Koran; prohibitions and intrusions on prayer and the call

to prayer; sexual humiliation; and confining Plaintiff under conditions where it was impossible or infeasible for him to exercise his religious rights.

129. Defendants were acting under the color of the law of the United States at all times pertinent to the allegations set forth above.

130. Plaintiff suffered damages as a direct and proximate result of Defendants' violations of the Religious Freedom Restoration Act, 42 U.S.C.A. § 2000bb et seq.

131. Plaintiff is entitled to monetary damages and other relief to be determined at trial.

Count VIII
Federal Civil Rights Act
42 U.S.C. § 1985 (3)

132. Plaintiff repeats and re-alleges the allegations contained in all preceding paragraphs of this complaint as if fully set forth herein.

133. At all times herein the Defendants conspired to injure the Plaintiff, to deny them the equal protection of the laws, and to deprive them of rights secured by the laws, treaties, Constitution, and applicable common law of the United States. This conspiracy was motivated by a class-based invidious animus and antagonism to the religion of the Plaintiff.

134. As a proximate result of the aforementioned, the defendants and their agents undertook and implemented the adverse actions against the Plaintiff, as described and set forth herein.

135. As a further proximate result, Plaintiff was caused the injuries, set forth above.

REQUEST FOR RELIEF

Wherefore Plaintiff demands judgment against Defendants jointly and severally, including:

1. Declaring that Defendants' actions, practices, customs, and policies, and those of all persons acting on their behalf and/or their agents and/or employees, alleged herein, were illegal and violate the rights of Plaintiff as to each applicable count;
2. Declaring that Plaintiff's detention was unjustified, unconstitutional, and unlawful;
3. Awarding compensatory and punitive damages in an amount that is fair, just and reasonable, including reasonable attorneys' fees, and such other and further relief as this Court may deem just and proper; and
4. Ordering such further relief as the Court considers just and proper.

A jury trial is demanded on all issues.

Dated: September 30, 2008

Emilou MacLean (AKA)

Emilou MacLean (Pursuant to LCvR 83.2(g))
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Attorneys for Plaintiff

VERIFICATION

Counsel for Plaintiff declare under penalty of perjury that the foregoing is true and correct to the best of our knowledge, information, and belief.

Dated: September 30, 2008

Emilou MacLean / AK.D

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CERTIFICATION OF REPRESENTATION WITHOUT COMPENSATION

Counsel for Petitioners certify, pursuant to L. Cv. R. 83.2(g), that they are representing Plaintiff without compensation.

Dated: September 30, 2008

Emilou MacLean / AKD

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