EXHIBIT 4

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOHAMMED ABDULLAH MOHAMMED BA ODAH, *et al.*,	:	
Petitioners,	:	
	:	Civil Action No. 06-1668 (TFH)
v.	:	
BARACK H. OBAMA, *et al.*,	:	
Respondents.	:	

SUPPLEMENTAL DECLARATION OF DR. SONDRA CROSBY IN SUPPORT OF PETITIONER TARIQ BA ODAH'S MOTION FOR HABEAS RELIEF

I, DR. SONDRA S. CROSBY, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I have reviewed the declaration submitted in this case by the Senior Medical Officer (SMO) at Guantanamo Bay, which sets forth observations and conclusions about Mr. Ba Odah's medical condition and relationship to the Guantanamo medical staff.

2. Nothing in the SMO's declaration causes me to alter my original opinion signed on June 22, 2015, concluding that Mr. Ba Odah, by virtue of his extremely low 74-pound weight and as-yet undiagnosed symptomology, is suffering from the grave consequences of severe malnutrition and that he is in need of medical intervention by independent and trusted medical personnel in order to limit the risk of death or disability he currently faces. Indeed, the SMO's declaration furthers my concern, insofar as it affirms that Mr. Ba Odah is at a dangerously low weight (and has been for nearly a year), that he has not been adequately evaluated or treated, and that his understandable distrust of the Guantanamo medical staff is preventing the possibility of

treatment and recovery. I also consider several aspects of the SMO's assessment, particularly his summary conclusion that Mr. Ba Odah is "clinically stable," to be based on insufficiently reliable clinical data and that cannot form the basis of a medically responsible judgment.

Lack of Medically Sound Basis to Conclude Mr. Ba Odah is Clinically Stable

3. In paragraph 22 of his declaration, the SMO opines that Mr. Ba Odah is "clinically stable." It is not clear to me what the SMO means by such an assessment, but if he means to suggest that Mr. Ba Odah does not require urgent medical evaluation and intervention, I believe the conclusion is unsupported by important clinical evidence such as a history of symptoms, physical examination, and important clinical testing. The weight of 74 pounds and clinical symptoms reported to Mr. Ba Odah's attorney would lead a reasonable physician to conclude that Mr. Ba Odah is not "stable".

4. To begin, as I detailed in my earlier declaration, the fact that Mr. Ba Odah is an adult male weighing 74 pounds and at 56% of his ideal body weight likely indicates that he is seriously ill, suffering from the slow, debilitating effects of starvation and at ever-present risk of sudden collapse from illness or infection. See Crosby Decl. ¶¶ 5-6. As a matter of clinical protocol, patients below even 70% of their ideal body weight merit hospitalization to address the potential onset of an array of severe medical risks.

5. Indeed, the SMO admits throughout his sworn declaration that no physician at Guantanamo has undertaken appropriate diagnostic analyses of Mr. Ba Odah, other than to test Mr. Ba Odah's vital signs most recently on April 2, 2015, approximately four months before the SMO's assessment was completed. Put simply, it is poor medical practice to offer an assessment of a patient's relative health without, at a minimum, a history, full physical examination, and

obtaining results from blood tests, electrocardiography and other tests to address his existing clinical situation. No matter a patient's environmental setting, including in a custodial detention setting, these elemental tests and others are prerequisites to the medical conclusion that Mr. Ba Odah is stable.

6. Because the SMO has not undertaken the necessary diagnostic measures (due to Mr. Ba Odah's understandable distrust of medical staff), his conclusion appears based primarily on "the fact that [Mr. Ba Odah] has maintained a consistent weight range since September 2014 and is functioning normally in his daily life leads me to believe that the current manner of managing his non-religious fast [sic] remains appropriate." SMO Decl. ¶ 26. The conclusion improperly conflates stable weight with stable medical condition. A consistent weight range of 74 pounds is certainly not a sign of clinical stability; rather it is the opposite, as Mr. Ba Odah faces persistent, serious medical risk even without losing any more weight. I further question the SMO's confidence in his approach to managing Mr. Ba Odah's hunger strike. The emphasis he places on Mr. Ba Odah maintaining his current weight of 74 pounds is misplaced. Observing Mr. Ba Odah in order to respond to the potential that he loses more weight is not protocol to manage the deterioration of a hunger striker. Such an approach is tantamount to waiting for an already serious situation to become potentially irreversible before initiating the appropriate medical course of diagnostic testing and treatment. Were Mr. Ba Odah to lose more weight, so as to decline, for example to 50% or 45% of his ideal body weight, there will likely be very few remaining medical options available to spare his life.

7. The other apparent basis for the SMO's conclusion is visual observations of Mr. Ba Odah engaged in normal daily activities such as grooming, praying, singing, walking and talking. Notably, these observations do not appear to have been made by the SMO himself, but

were reported as anecdotes by other medical and non-medical Guantanamo staff, but without reference to dates, frequency or regularity. In any event, the mere appearance of normal functioning is not a valid basis for making a clinical judgment about Mr. Ba Odah. Observations from attending staff in a clinical setting can be very helpful ancillary information in forming medical judgments, but do not on their own, in the absence of a clinical evaluation, form the basis for a physician to reach a medical conclusion, as the SMO seems to have done in this case.

8. I must also question a physician's assessment that a man at 74 pounds, with his described symptoms, appears or functions normally. In an ordinary clinical setting, no physician could observe a patient so dramatically underweight as Mr. Ba Odah and nonetheless conclude their body is functioning normally because he manages to converse with neighboring patients, brush his hair, or say his prayers.

9. In addition, by exclusively crediting anecdotal evidence of normal behavior, the SMO's assessment appears simply to disregard numerous red flags that offer substantial evidence that Mr. Ba Odah is not stable. Setting aside the failure to consider the symptomology offered by Mr. Ba Odah's counsel or the risks of malnutrition well known in the literature, the declaration itself notes that Mr. Ba Odah reported being in "despair" and that on at least one occasion he "slid down" to the floor of his cell in exhaustion and had to be carried away on a stretcher. These events are not incorporated in his diagnosis. For example, there is no assessment or explanation of whether Mr. Ba Odah's collapse was caused by a heart arrhythmia, electrolyte imbalance, or any other serious etiology that often affects patients in precisely this way.

10. A physician should not offer a medical assessment that is based, as this assessment appears to be, on a selective consideration of anecdotes and behavioral

characterizations. Medical conclusions include a full evaluation of the patient and on all available information – including information that is inconsistent with a diagnosis. Where such information is unavailable (as in Mr. Ba Odah's case), the ethically responsible course for a doctor is to decline to offer any medical opinion (or qualify that opinion to fit the available evidence) or to obtain that information through intervention by physicians that have the trust and confidence of the patient.

Underlying Physiological Condition

11. The SMO states that Mr. Ba Odah is receiving up to 2600 calories a day through Ensure nutritional supplements. Yet, Mr. Ba Odah remains at 74 pounds, and is apparently unable to gain weight. The SMO offers no explanation for this phenomenon. As I previously explained, the most likely reason is that Mr. Ba Odah has developed some underlying physiological compromise (possibly in the gastro-intestinal system) or micronutrient deficiency that is inhibiting the absorption of calories. This is common in malnourished patients, particularly as organ functioning becomes increasingly compromised. A proper course of care for Mr. Ba Odah requires determination of whether he has the physical ability to absorb the nutrients he consumes.

12. By referencing episodic instances in which Mr. Ba Odah manipulated or discarded his food, or "purged" his nutritional supplements, the SMO appears to suggest that this is the reason he is unable to gain weight despite his 2600 daily caloric intake.[1] If this is the

[1] I do not know if the term "purging" refers generally to vomiting or induced vomiting. The number of times and circumstances of such "purging" are not specified. I would note, however, that being forcibly fed a substantial volume of liquid supplement, particularly in the manner Mr. Ba Odah describes, can be very uncomfortable or painful to someone with a shrunken stomach, so that even induced vomiting would be a way for Mr. Ba Odah to reduce the pressure and pain in his stomach.

intended implication, it is not a substantiated or a clinically reliable one. To begin, there is insufficient documentation about how frequently he manages to avoid forcible feeding and discard his food. I note again that 74 pounds is an extraordinary level of malnourishment for an adult male. If the cause of Mr. Ba Odah's weight loss is not physiological, but attributable solely to his effort to reject the nutrients he is being provided, then Mr. Ba Odah must be consuming only a fraction of his daily calorie allotment. Were that in fact the case, I would expect the SMO to provide considerably more detail to support that conclusion. On the strength of the SMO's declaration, however, there is simply no reliable way to connect the asserted food manipulation as the sole or even primary reason for Mr. Ba Odah's inability to gain weight. In this case, blaming the patient for his current condition is not reasonable.

13. Even if Mr. Ba Odah is circumventing some amount of food, other serious explanations for his inability to gain weight must be considered given the SMO's protocol of compelling Mr. Ba Odah to consume 2600 calories each day – including malnutrition induced damage that prevents proper absorption and/or processing of caloric intake.

14. Likewise, as I stressed earlier, based on available information, I do not believe Mr. Ba Odah's condition will be remediated by a simple change in behavior or more regular calorie intake. He needs thorough diagnostic evaluation, monitoring and treatment of underlying gastro-intestinal and other organ damage, monitoring of electrolytes and micronutrient intake.

15. The SMO mentioned that Mr. Ba Odah has latent tuberculosis (TB). In a healthy individual, latent tuberculosis would not be a serious concern. But for individuals with compromised immune systems such as those enduring severe malnutrition, there is a risk that the TB could become active and very dangerous.

16. The SMO mentioned that Mr. Ba Odah suffers from "pressure ulcers." These are commonly known as "bed sores." They are a worrying indication of Mr. Ba Odah's poor health. It is likely caused by the combination of Mr. Ba Odah's depleted energy, which renders him sedentary and the fact that he is quite literally skin and bones, with no fat or muscle to absorb the pressure on his body when he sits or lies down. Additionally, I note that wound healing is impaired in someone with Mr. Ba Odah's level of severe malnutrition.

Behavior and Trust

17. The SMO's declaration catalogs instances in which Mr. Ba Odah refused to see Guantanamo medical staff. As I explained in my earlier declaration, incarcerated individuals frequently do not trust medical staff they perceive to be part of the prison apparatus. The phenomenon is not uncommon in prisoners who are on hunger strike because they already associate their incarceration with a deep injustice. I have observed this phenomenon in hunger strikers in multiple settings around the world; it is certainly not unique to Guantanamo. And, it is so widely accepted that the global medical community has established applicable ethical guidelines and protocols, specifically the Declaration of Malta for Hunger Strikers. Under the Malta Declaration, because patient-physician trust is so central to healing and recovery, doctors are obligated to ensure consultation and treatment by independent medical professionals when trust is compromised.

18. As previously described, given that the medical staff at Guantanamo orders and processes Mr. Ba Odah's forcible feeding (which, as the SMO acknowledges, may include forced cell extractions), it is reasonable and common that Mr. Ba Odah would regard them as coercive and part of the prison structure. Nothing in the SMO's declaration changes my assessment that Mr. Ba Odah's distrust of Guantanamo medical staff is reasonable.

19. It is also not surprising (and ultimately irrelevant to a medical diagnosis) that Mr. Ba Odah has expressed displeasure with or verbally insulted medical staff (albeit comparatively modestly in my view). Lashing out verbally is consistent with distress and the despair observed by the SMO, or with other undiagnosed psychological conditions. It may also be related to cognitive issues related to his malnutrition. This too should be part of a full neuropsychological evaluation.

20. Outside of Guantanamo, I have never heard of the term "non-religious fast" to describe someone on a hunger strike. It is not a medical term and I have never heard a doctor anywhere in the world use it outside of Guantanamo. By contrast, "hunger striker" or "hunger striking" is a common and well-understood phenomenon in the medical discourse.

21. I fully acknowledge that caring for hunger strikers, especially in the context of Guantanamo, is complex and challenging, even for experienced, senior physicians. However, Mr. Ba Odah's care is not consistent with good medical practice.

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

Dated: September 10, 2015
Boston, Massachusetts

Sandra Crosby

Dr. Sondra S. Crosby