

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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MOHAMMED ABDULLAH MOHAMMED	:	
BA ODAH, <i>et al.</i> ,	:	
	:	
Petitioners,	:	
	:	Civil Action No. 06-1668 (TFH)
v.	:	
	:	
BARACK H. OBAMA, <i>et al.</i> ,	:	
	:	
Respondents.	:	
_____	X	

**DECLARATION OF OMAR A. FARAH IN SUPPORT OF PETITIONER’S  
MOTION TO REINSTATE HIS PETITION AND FOR JUDGEMENT ON THE  
RECORD**

Pursuant to 28 U.S.C. § 1746, I declare that the following is true and correct to the best of my knowledge:

1. I am a Staff Attorney at the Center for Constitutional Rights in New York. I am counsel to a number of men currently imprisoned at the U.S. Naval Station at Guantánamo Bay, Cuba (“Guantánamo”), including Mr. Tariq Ali Abdullah Ba Odah, a Yemeni national who has been approved for transfer with conditions by the U.S. government

2. I submit this Declaration in Support of Mr. Ba Odah’s motion to reinstate his petition for a writ of habeas corpus and for judgment on the record. Specifically, this declaration sets forth: (1) Mr. Ba Odah’s stated desire to pursue urgent habeas relief; (2) my observations of Mr. Ba Odah’s astonishingly low body-weight and visible ill-health and his own descriptions of his physical and cognitive state; (3) the forcible feeding regimen and the solitary conditions of

confinement Mr. Ba Odah has endured for the last eight-plus years since he has been on hunger strike; and (4) his medical treatment at Guantánamo.

3. I submit this declaration with the utmost concern for Mr. Ba Odah's life. Though he is tube fed through his nose each day, Mr. Ba Odah's weight has fallen to 74.5 pounds according to information disclosed by the government. His body appears ravaged by starvation. With seemingly no fat or musculature to cover them, bones protrude through his skin; he says his body is growing progressively numb; and, though lucid and articulate during our meetings, he is periodically overtaken by confusion, absentness, and debilitating exhaustion – something I have witnessed and which at times has required Mr. Ba Odah to abruptly end meetings prematurely.

4. I have consulted with multiple clinicians about Mr. Ba Odah's condition. In light of how underweight he is and his reported symptoms, each confirms that Mr. Ba Odah is at serious risk of permanent physical and neurological damage. Each likewise places him at serious risk of death from independent, but mutually reinforcing, symptoms of malnourishment.

5. Mr. Ba Odah's perilous ill-health compels this request to reinstate his petition and for an order requiring the government to effect his immediate release from Guantánamo so that he can receive immediate and appropriate medical intervention.

### **BACKGROUND**

6. Mr. Ba Odah is a Yemeni national, but emigrated to Jeddah, Kingdom of Saudi Arabia with his family at the age of one. Much of his family remains there today. He has been imprisoned at Guantánamo without charge since February 2002. His assigned Internment Serial Number (ISN) is 178. I have represented Mr. Ba Odah in habeas proceedings since 2009, and during the course of that representation have met with him numerous times.

7. The information in this declaration is drawn from notes of my meetings and phone calls with Mr. Ba Odah, my observations of him during our interactions, and from correspondence to me from Mr. Ba Odah.

8. In March 2014, Mr. Ba Odah elected to voluntarily withdraw his habeas petition, which had been indefinitely stayed for several years. Though comparatively stable in light of his subsequent deterioration, Mr. Ba Odah determined then that he was too weak to effectively participate in preparing a defense or otherwise assisting counsel in proceeding to a factual hearing on the government's allegations against him.

9. In the time since Mr. Ba Odah withdrew his habeas petition, I met with him once at Guantánamo in June 2014. I returned to meet with him again in November 2014, but was forced to cancel that meeting due to the unexpected absence of my Arabic language interpreter, which rendered communication with Mr. Ba Odah impossible. I met with Mr. Ba Odah most recently on March 17 and again on April 21, 2015.

10. In advance of this filing, I attempted to speak with Mr. Ba Odah again by unsecure telephone call on June 9. Mr. Ba Odah did not attend. Mr. Ba Odah has explained that he has limited mobility, is generally exhausted and in intense discomfort. He often feels provoked by the guards responsible for moving him for calls and meetings. Mr. Ba Odah has informed me that his decision to decline meetings and calls are typically caused by some combination of these factors.

11. Since I began meeting with him, Mr. Ba Odah has always appeared frail. During our last in-person meetings, however, his weight had declined so much that he appeared essentially unrecognizable to me, even as compared to the diminished physical condition in which I have grown accustomed to seeing him over the years. He was skeletal and in obvious

pain and distress. He said to me, “My life is not like it was; this is the hardest time I have ever had.”

12. Mr. Ba Odah’s weight loss and reported symptoms of physical and neurological decline, detailed below, led Mr. Ba Odah to the unavoidable conclusion that his health is in jeopardy. As a result, on April 21, 2015, he signed a written authorization to seek all relief from this Court that is appropriate under the circumstances of his continued detention and ill-health.

### **Mr. Ba Odah’s Alarming Physical Condition**

13. On April 20, 2015, during my last visit to Guantánamo, the government disclosed that Mr. Ba Odah weighs 74.5 pounds, amounting to a mere 56% of his ideal body weight.

14. During that conversation, counsel for the government also reported that Mr. Ba Odah has been “stable” at that weight roughly since September 2014 and that, according to medical staff at Guantánamo, Mr. Ba Odah’s last metabolic panel and blood count test were conducted in February 2013 and that his results at that time were “normal.”

15. Out of concern for his well-being, I asked counsel for the government to grant me access to Mr. Ba Odah’s medical records and to permit an independent, non-military medical expert of Mr. Ba Odah’s choosing to meet with him at Guantánamo. I was informed that the government has denied both requests.

16. In the absence of a photograph, I can best describe Mr. Ba Odah’s current physique by comparison to liberation photos of Holocaust survivors. During a recent meeting, Mr. Ba Odah lifted his prison smock for me to see his naked torso. What I recorded in my notes is, “does not look like body of human; every bone visible; veins visible up to armpits.”

17. He has lost so much weight that now each of his ribs is plain to see as though only skin covered them, but little if any tissue or muscle. There does not appear to be any vitality in

his skin tone; it is pasty and yellow. He reports that his throat is raw, which causes him severe, persistent discomfort, so much so that Mr. Ba Odah says it pains him to even speak loudly.

18. Mr. Ba Odah has demonstrated for me that he can nearly touch the tips of his pinky finger and thumb around his own bicep. On the one occasion when I saw him sip water, his hands shook visibly like an infirm old man. His face was drawn, causing his jawline and teeth to protrude.

19. Mr. Ba Odah reports experiencing severe pain in his sides, abdomen, and what he refers to as his “intestines area.” But he also reports that he is progressively losing sensation in his hands and feet. He says he has to “move them to resume circulation.”

20. According to Mr. Ba Odah, standing up causes him to feel dizzy. Sitting upright, however, also causes him pain, especially in his back. I have observed Mr. Ba Odah reflexively shifting in his seat during meetings to alleviate his discomfort. Mr. Ba Odah attributes this to years of being force-fed in a restraint chair: “Sitting for long periods of time on the [feeding] chair has caused me chronic pain.” As result, on March 17, 2015, Mr. Ba Odah reported that he spends most of his time in his cell lying still on his bed.

21. Mr. Ba Odah is lucid, communicative, and articulate during meetings. Nonetheless, at times he suffers from spells of absentness during which he does not appear to perceive or understand what is happening around him. I am aware of this not only because Mr. Ba Odah often complains of his inability to focus and comprehend oral communication, but because at times he has a vacant affect during meetings. When he becomes alert again, he requires me to reorient him in our conversation and to repeat information before he can respond coherently. This feature of Mr. Ba Odah’s deterioration has become more pronounced over the course of roughly the last year.

22. Mr. Ba Odah complains of unsettling and recurring memory loss. For example, he has described attempting to write to his family, but being unable to properly date the letter because he could not recall the current year. He has also informed me that at times he cannot retain the information we discuss in our legal meetings. As he explains it, “Usually when I return from a meeting with you I forget all, except from some brief parts of the information I receive from you and that is due to my poor memory.”

23. Alarmingly, Mr. Ba Odah is suffering from these ailments despite the fact that the military has reportedly increased the volume of liquid supplement it pumps into his stomach during feeding sessions. In his words: “What I used to get in two or three sessions, I now get in one.”

#### **Mr. Ba Odah’s Hunger Strike and His Painful Forcible Feeding Regimen**

24. Mr. Ba Odah reports that he first began to hunger strike in 2005 to peacefully protest his indefinite detention. The purpose, he explains, is “to express the injustice that is being inflicted on me.” He also says it is an expression of his vitality and dignity. Thus he says that having his capacity to protest overborn through daily force-feedings is humiliating. He has described the process to me many times over the years as one that involves him being strapped to a restraint chair so a tube can be inserted up his nose and liquid food drained into his stomach. He believes it is painful and degrading and he calls it torture.

25. According to Mr. Ba Odah, he endured a severe backlash from the military when he first started to hunger strike. In order to compel him to break his protest, he explained that in 2005, the military “used on us all forms of torture,” including beating him and depriving him of sleep, the opportunity to pray without interference, recreation time, and even enough clothes to

preserve his modesty. Mr. Ba Odah explained that he “prefer[s] not to recall those bitter days, but they used everything imaginable” to break his will to protest.

26. Mr. Ba Odah explains that the worst forms of retaliation came in the form of abusive, often physically violent force-feeding sessions. In his words:

I was tortured with the restraining chair when they were filling my belly with two packs of Ensure and it felt like waterboarding, yet here it was with Ensure and all my limbs are restrained to the chair and the air condition[er] is over my head blowing freezing cold air, in addition to my soaked clothes from wetting myself and vomiting by virtue of the large amounts of Ensure, mixed with water and laxatives, which were given to me. There would be vomit all over the floor. They would introduce a 14 size tube with a metal end inside my nose to reach my stomach and sometimes my lungs and when they would take it out it would be filled with blood . . . .

27. Mr. Ba Odah reports that he maintained his strike for one year, but says that in January 2006, the military succeeded in breaking his will to strike. He says the backlash was more than he could bear.

28. In 2007, however, he resolved to resume his hunger strike. Mr. Ba Odah says he has maintained his strike ever since, refusing to voluntarily ingest any food since February of that year. In the eight years and five months since Mr. Ba Odah began his current, uninterrupted hunger strike, he says he has endured harsh, persistent abuse at Guantánamo.

29. For example, after one feeding session in 2011, Mr. Ba Odah says he was lifted in the air while in a restraint chair and slammed to the floor by guard staff. His chin was cut open in the process. He states that he was visited later by a senior officer who said to him that “all of this can be avoided if you stop striking.” As a result, Mr. Ba Odah refers to the five-point restraint chairs in use at Guantánamo as “the torture chair.”

30. Mr. Ba Odah reported to me in April 2013 that Initial Reaction Forces (IRF) – a force of multiple guards with protective gear – routinely subjected him to forced cell extractions

both for feeding sessions and to be weighed. He says he was “transferred and restrained to the chair with metal chains thousands of times.” In the process, he says his ribs were injured and bruised from the force of the IRF teams subduing him. Mr. Ba Odah recounted that the IRF team would “hit my head hard against the concrete floor. They would sit me up and pull my head as though they meant to break my back.”

31. Even as recently as mid-April 2015, Mr. Ba Odah says he was force-fed while dressed in nothing but his underwear. An IRF team forcibly removed him from his cell, he says, and strapped him to the restraint chair for a feeding session in nothing but his boxer shorts. As a result, Mr. Ba Odah has told me that he strikes to protests the humiliation of the restraint chair as much as his indefinite detention itself.

32. Mr. Ba Odah also describes being humiliated in other ways. Especially in 2013, he says his body was regularly searched “with all the provocations that come with that” – a euphemism he uses to avoid describing the humiliation of having his genital area searched. On more than one occasion, Mr. Ba Odah swore off face-to-face meetings with me in response to the military’s search protocol. He says it is an affront to his “moral values.” Mr. Ba Odah has also forgone long-awaited telephone calls from his family for the same reason. Mr. Ba Odah complains of many other provocations he believes are attempts to pressure him to abandon his strike, among them sleep deprivation and interruption of prayers.

### **Mr. Ba Odah’s Severe Physical and Psychological Deterioration**

33. Mr. Ba Odah reports that before he began his hunger strike in 2007, his weight reached a high of nearly 140 pounds. Though his weight has at times fluctuated, Mr. Ba Odah has become progressively frail ever since.



34. I have personally observed Mr. Ba Odah's weight loss and other manifestations of his physical and psychological deterioration since 2012, which has progressively declined until the point of his current, precarious state.

35. For example, during one meeting in October 2012, Mr. Ba Odah informed me that he lost roughly 20 pounds in the wake of the death of Mr. Adnan Latif, the last prisoner to die in U.S. custody at Guantánamo. According to Mr. Ba Odah, he was then near 105 pounds. In April 2013, just six months later, he reported to me that he weighed only 90 pounds. Then in July 2014, slightly more than one year later and only months after Mr. Ba Odah voluntarily withdrew his habeas petition, he reported that his weight had declined further to roughly 85 pounds.

36. Already around that time, Mr. Ba Odah reported that Guantánamo medical staff were attempting to reverse the decline in his weight by drastically increasing the volume of liquid supplement he was being fed. "I cannot take it any longer," he said to me. The feedings were making him vomit up the supplement and blood. I wrote in my notes of that meeting that Mr. Ba Odah was "strikingly frail and thin."

37. From that reported low, Mr. Ba Odah says – and the government now confirms – that he has lost an additional 10.5 pounds, leaving him at just 74.5 pounds as of April 20. He has withered to the point that his physique is defined entirely by his skeletal structure. When I enter a meeting cell, what I see of Mr. Ba Odah are his bare, rail-thin arms, the outline of his shoulders, ribcage, and hipbones covered by a prison smock. I do not see much of any fat, tissue, or musculature.

38. Besides his weight loss, Mr. Ba Odah's body has been compromised in other alarming ways. As early as 2013, he began reporting that his vision is weakening and that he is now suffering from a condition that causes swelling in his feet. Relatedly, he reports that he is

plagued by stiffness in his joints that, along with his depleted energy, compromises his ability to walk confidently under his own power. He has informed me that he suffers from chronic constipation and bloody stools.

39. Severe, migraine-like headaches also plague Mr. Ba Odah. This is compounded by the fact that he says he is frequently agitated and nervous. He described the sensation as one of his “muscles and nerves shivering,” “needles in [his] heart,” and a “racing heartbeat.”

#### **Mr. Ba Odah’s Conditions of Confinement at Guantánamo**

40. Mr. Ba Odah describes enduring mental anguish from the harshness of daily life at Guantanamo, accumulated over thirteen years. He explains that, “there are cruel elements here [at Guantánamo] which are diligently and cold-bloodedly trying to destroy me . . . physically and mentally. The effects of these elements are horrific, for they destroy human beings from the inside without leaving any visible scar.”

41. Mr. Ba Odah says he has been housed in conditions of severe isolation or solitary confinement at Guantánamo’s Camp 5 almost without interruption from 2009 until today. He describes it simply as “dark and cold.” In his words, while in Camp 5 his “body has become frail, weak, and sick because of the beating and the awful psychological and physical torture during these long years.”

42. Mr. Ba Odah reports that his access to natural light and human contact is severely restricted in his cell-block. He has written to me that at certain times during his imprisonment in Camp 5, days would go by and he would “not speak to a soul” – any communication with other prisoners was when he could hear their voices through the walls or under the door of his cell. He also reports that prison officials have sometimes scheduled his two-hour allotted recreational

time at odd hours such as 3:00 am, to further isolate him and pressure him to break his hunger strike.

43. In his present condition, Mr. Ba Odah says he finds it difficult, if not impossible, to leave his cell under his own power anyway. He reports he has not taken even the little recreation time he is allotted in approximately one year. As he explained it to me, he does not see anyone and he does not see the sun.

#### **Mr. Ba Odah's Medical Treatment at Guantánamo**

44. After so many years of tube feeding, Mr. Ba Odah describes feeling like a guinea pig used for medical experimentation at Guantánamo. He explains that the feeding tubes used to deliver dietary supplements sometimes lose their direction and injure him. When the tube is then removed, Mr. Ba Odah writes that it is full of blood. At times, he has told medical staff there that he will not cooperate with their instructions. "I am not going to help them kill me," he explains.

45. Rather than treating him, Mr. Ba Odah says that Guantánamo medical staff cooperate with and influence the guard force to cause him harm. Mr. Ba Odah says he believes that the medical staff is integral to the restraint and force-feeding regimen that he so despises for being coercive and humiliating. He wrote that he has been visited by medical staff in the past, and was immediately thereafter subjected to routine forced cell extractions by IRF teams for feeding and weighing. Mr. Ba Odah confirmed on April 21, 2015, that he continues to be subjected to extractions by IRF teams for feeding sessions.

46. Mr. Ba Odah has explained that doctors at Guantánamo are indifferent to his suffering. He believes they have no genuine interest in treating his underlying health problems. He believes they have withheld appropriate care from him to convince him to abandon his

