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July 23, 2021

Via E-Mail

Periodic Review Board
c/o Periodic Review Secretariat
Arlington, VA 22202

Re: Guled Hassan Duran (ISN 10023)

To the Periodic Review Board:

We are private counsel for Mr. Guled Hassan Duran, ISN 10023, who is detained at the U.S. Naval Station at Guantánamo Bay, Cuba. We respectfully submit this letter on behalf of Mr. Duran in support of his Periodic Review Board hearing on July 29, 2021. The Board should approve Mr. Duran for transfer because he does not pose a significant threat to the security of the United States. He is educated, lacks bitterness about his experiences in detention, and should be easily capable of reintegration into civilian life in many different countries, as discussed specifically below.

1. Background and Litigation Status

Mr. Duran is a citizen of Somalia with prior residence in Germany and Sweden, and family members living throughout Canada and the United States. He was captured in Djibouti in March 2004, rendered to secret CIA detention where he was tortured and abused, and transferred to Guantánamo in September 2006. In 2009, he was designated for continuing indefinite detention – not prosecution like nearly all other former CIA detainees – by the Guantánamo Review Task Force. He appeared before the Board, without counsel or adequate translation services, for an initial hearing beset by other logistical problems that caused it to be held over two days separated by several weeks, and was denied approval for transfer in September 2016.

Mr. Duran filed a habeas case in November 2016, challenging the legality of his capture and detention. That case is active and ongoing, and we are currently waiting for rulings on significant discovery motions. *See Duran v. Trump*, No. 16-cv-2358 (D.D.C.) (Walton, J.). In the habeas case, the core evidence that the government presents in support of Mr. Duran's detention consists of intelligence reports from the CIA that appear largely to include statements made by Mr. Duran after his initial capture in Djibouti and rendition to secret detention in March 2004. These statements were made while he was subject to torture and other unlawful abuse by the CIA in secret detention.¹

¹ He was, most significantly, subjected to the withholding of urgent medical treatment for an abdominal gunshot wound suffered in a street robbery in Mogadishu, shortly prior to his detention. He was traveling to seek surgical repair of the wound at the time he was taken into custody, but his captors only allowed him to receive the surgery years later. *See* Unclassified Motion for Discovery, *Duran v. Trump*, No. 16-cv-2358 (D.D.C. filed Sept. 30, 2019) (ECF No. 114-1) (redacted and approved for public filing) at 3.

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Given the lack of credible evidence to justify Mr. Duran's detention, at the direction of counsel he will not answer any questions from the Board, including questions concerning the summary of unclassified allegations against him or any other matter related to his detention.

2. Mr. Duran has always been of minimal interest to the U.S. government

Of the [REDACTED] "high value detainees" brought to Guantanamo in and after September 2006, [REDACTED] were ultimately designated for prosecution by President Obama's Guantanamo Review Task Force in 2009-10. Mr. Duran was not one of them. He is one of only two HVDs who the Task Force declined to recommend for prosecution.²

He bears no connection whatsoever to any of the major terrorist or militant groupings familiar to this Board: Al Qaeda in Pakistan and Yemen, the Taliban, Jemaah Islamiyah. It is a matter of happenstance that he was detained with the other high value detainees: when Mr. Duran met Khalid Shaikh Mohammed in CIA detention, KSM had no idea who he was.³ Put simply, he is not one of them. That accords with the person we have known in Guantanamo for the last five years. Ms. Duran is not an individual who has sworn his life to violence.

Instead, the Government's narrative is that he returned to Somalia to participate in the resistance to the Ethiopian military invasion, joining and training with a group (Al-Ittihad al-Islami, or AIAI) to fight against Ethiopia. AIAI was defeated by Ethiopia militarily and disbanded afterwards.⁴ AIAI was not part of Al Qaeda or an Al Qaeda-associated force; indeed, there were no Al Qaeda-associated groups in Somalia until the Obama administration's designation of Al Shabaab in December 2016.⁵ Moreover, neither AIAI nor the conflict between Ethiopia and Somalia had anything to do with the United States. Rather, that conflict was regional and involved a long-running dispute over ethnic Somali territory.

Mr. Duran's case is the first and only detainee habeas case litigated since *Boumediene v. Bush*, 553 U.S. 723 (2008), in which the government has relied in its case-in-chief on evidence obtained from a detainee while he was subjected to the CIA torture program. See Suppl. to Jt. Status Report at 1-2 & n.1, *Duran v. Trump*, No. 16-cv-2358 (D.D.C. Aug. 2, 2017) (ECF No. 37-1) (redacted and approved for public filing). That is perhaps a consequence of the fact that Mr. Duran had no affiliation whatsoever with other detainees held in the CIA program or at Guantanamo, as noted in section 2 below.

² The other is Muhammad Rahim (ISN 10029). Two others, Abu Zubaydah (10016) and Abu Faraj al Libi (10017) appear to have long ago been dropped as targets of prosecution.

³ See Unclassified Motion for Discovery, *Duran v. Trump*, No. 16-cv-2358 (D.D.C. filed Sept. 30, 2019) (ECF No. 114-1) (redacted and approved for public filing), Ex. A at ¶ 81.

⁴ See Harun Maruf & Dan Joseph, *Inside Al-Shabaab* 22-23 (Ind. Univ. Press 2018).

⁵ See Charlie Savage et al., *Obama Expands War With Al Qaeda to Include Shabab in Somalia*, N.Y. Times, Nov. 27, 2016.

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To the extent there were individuals who identified as Al Qaeda members operating in the region of East Africa, the U.S. government has concluded that they largely operated in Kenya and Tanzania, but were unable to establish a presence in Somalia, based on declassified intelligence-related materials gathered from a variety of sources, including Al Qaeda itself.⁶ Nearly all of the specific individuals who were allegedly involved in leading militant groups like AIAI in East Africa or the Horn of Africa at any time possibly relevant to Mr. Duran are now incapacitated. Indeed, a brief Google search shows that Fazul Abdullah Mohammed, Saleh Ali Saleh Nabhan, Abu Talha Al Sudani, Ibrahim Al-Afghani, Hassan Abdullah Hersi Al-Turki, Aden Hashi Ayro, and Ahmed Abdi Godane are all dead. Others such as Mukhtar Robow and Hassan Dahir Aweys have surrendered or been captured, and remain in custody. Even assuming Mr. Duran were ever loosely associated with any of them, none are left to re-associate with.

In short, the allegations against Mr. Duran simply do not warrant continued lifelong detention, particularly seventeen years after his capture.

3. There are many possible venues for a successful life post-transfer

Mr. Duran has a large, close-knit family across the United States, Canada, and the quasi-independent State of Puntland (in the northern part of the former Somalia). They remain willing and able to support him financially, emotionally and in any other way necessary to facilitate his reintegration and adjustment to life after Guantánamo. They are willing to do so for as long as needed, and regardless of where Mr. Duran is transferred to.

Mr. Duran is willing to be transferred to any country the U.S. government deems appropriate as long as he is safe and able to be reunited with his wife and children, who have been without him since his apprehension in March 2004. His intellect, English-language skills, and history of living in varied environments and cultures will serve him well wherever he ends up.

Mr. Duran lived in Sweden and Germany, and would be comfortable living in either country, Canada, or a similar European resettlement venue. He has also stated his willingness to go to the rehabilitation programs in either Saudi Arabia or Oman, and to comply with the security requirements such a host country would impose.

Places within Somalia also may provide a safe environment for Mr. Duran that also meets the security requirements the U.S. government has previously insisted on for all transfers. Three Somali detainees transferred from Guantánamo in 2008 and 2009 were sent to the quasi-independent Republic of Somaliland (in the northwestern part of the former Somalia) with the assistance of the International Committee of the Red Cross (ICRC). It is our understanding from discussions with the ICRC that it would be willing to provide similar assistance to Mr. Duran if the U.S. government were to request it

⁶ See *Al Qaida's (Mis)Adventures in the Horn of Africa* at 1, Harmony Project, Combating Terrorism Center at West Point (2010) ("[W]e find that in this region al-Qa'ida has been moderately successful when operating in weak states like Kenya but has largely failed to establish itself in failed states like Somalia."), available at <https://ctc.usma.edu/app/uploads/2010/06/Al-Qaidas-MisAdventures-in-the-Horn-of-Africa.pdf>.

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in order to send him to Somaliland. We also know there have been no humane treatment concerns or ostensible "recidivism" concerns related to the other Somali detainees released from Guantánamo. We know this because we have been in contact with them via telephone, email and social media, particularly our former client Mohammed Sulaymon Barre, ISN 567, who among other things has successfully pursued a doctoral degree in pharmacology at a prestigious university outside Somalia (facilitated in part by CCR).

As the Board is already likely aware, the Center for Constitutional Rights maintains close contact with its formerly detained clients long after their transfer, as well as with the U.S. Department of State and other agencies, and has continued to serve as a point of contact and resource for each to ensure that all transfers from Guantánamo are successful. We have been in regular communication with his wife [REDACTED] and son [REDACTED] throughout our involvement in this case. A number of us have traveled to Canada to meet members of Mr. Duran's family in person. We expect to remain engaged with Mr. Duran, his family, and the U.S. government long after he is transferred to avoid or address promptly any issues that may arise.

4. Conclusion

Up to this point, the HVD label, arbitrary as it may be, has marked detainees for a life sentence.⁷ We believe that Mr. Duran is an ideal candidate to be the first HVD cleared for transfer out of Guantánamo. He has never borne hostility towards the United States and never fought alongside groups of interest to our government. He has a wife and children he is desperately eager to reunite with, and a tight-knit family willing and able to support him. He has been held for too long given the nature of the allegations against him, and should be returned to his family.

We look forward to answering your questions during the hearing on July 29th.

Very truly yours,

Shayana D. Kadidal
J. Wells Dixon
Omar Farah

Counsel for Guled Hassan Duran

⁷ See, e.g., Senate Select Committee on Intelligence, *Committee Study of the Central Intelligence Agency's Detention and Interrogation Program* at 4 (Declassified Revisions Dec, 3, 2014) ("The CIA led several detainees to believe they would never be allowed to leave CIA custody alive, suggesting to one detainee that he would only leave in a coffin-shaped box."); *id.* at 35 ("[A]ll major players are in concurrence that [detainee] should remain incommunicado for the remainder of his life.").

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PERIODIC REVIEW BOARD FULL REVIEW, 29 JUL 2021
GULEED HASSAN AHMED, ISN 10023
PERSONAL REPRESENTATIVE STATEMENT

Members of the Board, I thank you for the opportunity to review Guleed's case.

The Private Counsel team for Guleed have been focusing their efforts on his Habeas case and in the past advised Guleed to refrain from meeting with me. I have had continuous contact with the PC team that represents Guleed.

Guleed routinely responds to my correspondence with his own kind and courteous letters thanking me for keeping him up to date on his case.

I had the chance to meet with Guleed on one occasion with his PC present. Recently the PC team for Guleed suggested that he attend meetings without them involved in order to prepare for this PRB hearing.

Guleed has family in the UK, US and Canada and these family members previously submitted letters of support as well as offer financial support for Guleed upon his release from GTMO.

As his Personal Representative I believe Guleed is no longer a continuing significant threat to the United States and our allies.

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