

Statement by Private Counsel for Ahmed Rabbani (ISN 1461)

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I am the founder of the London-based charity, Reprieve. I have represented Ahmed Rabbani *pro bono* for more than ten years and got to know him and his family very well. It is my privilege to write to you on behalf of Mr. Rabbani respectfully requesting his clearance at the hearing on August 17th.

I briefly outline this background only to illustrate that my whole career has been motivated by an intense pride in our Constitution. I am sure you also work daily to see the promise of that wonderful document fulfilled.

I have represented many clients facing execution, or detention in Guantánamo. I dare say that no client in my four decades of practice has suffered quite as acutely as Mr. Rabbani. Much of the paperwork before this Board outlines the history of Mr. Rabbani's case, but I would like to highlight a number of issues with which this Board may be unfamiliar, which will emphasize who he is and what he has been through.

First, I should note that the Pakistan government has filed a letter from a cabinet minister, Shahzad Akbar, in support of Mr. Rabbani. I have known Mr. Akbar for many years as a highly respected human rights lawyer himself, and I have been in discussions with him and with the Prime Minister of Pakistan, Imran Khan, who I have also known personally for years. Their support for their citizen is rare for a government, but it is also critically important. It means that we — you and I — can depend on both of them to work closely with us, and with Reprieve staff, to ensure that Mr. Rabbani integrates swiftly and safely back into Pakistan society.

It is also significant that an important ally like Pakistan is strongly urging us to repatriate their citizen.

Resolving his case is also particularly urgent given his declining physical and mental health.

Mr. Rabbani was originally detained when turned over to the U.S. by corrupt Pakistanis who hoped for rewards, who falsely said he was a terrorist called Hassan Ghul. At the time, Mr. Rabbani was at his home in Karachi, which the Board will know is 1,000 kilometers from the battlefields of Afghanistan. The bounties were being used a great deal in Pakistan, as noted in

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General Musharraf's autobiography, *In the Line of Fire*, where he says that more than 300 people were turned over for money.

Much of Mr. Rabbani's version of events is further corroborated in the 2014 U.S. Senate Report, that deals specifically with this case and says that "enhanced interrogation techniques" (EITs) were used on him "without authorization". Remarkably, the Report revealed to us that Hassan Ghul was captured while Mr. Rabbani was in custody and brought to the same prison as Mr. Rabbani. Ghul was released back to Pakistan, where he went back to his wicked ways, and was killed in a drone strike in 2012. Mr. Rabbani, meanwhile, was sent to Guantánamo where he remains 19 years later.

What saddens Mr. Rabbani more than anything is that, when he was abducted by the Pakistanis in September 2002, he did not know his wife was pregnant. She later gave birth to his son [REDACTED] who has written to you separately. While Mr. Rabbani has never met his child, who is now 17, I have met him on my trips to Pakistan. I can confirm that the only thing the family wants is to have Mr. Rabbani home so he can help support them, and help [REDACTED] achieve his goal of becoming a lawyer (inspired by none other than Abraham Lincoln). In addition to helping Mr. Rabbani, we have been trying to support [REDACTED] educational goals, as there is nothing I feel we can do that will more effectively ensure that he gets into a positive career. He is a good kid, and I know he will do well.

I know that the Board prefers to look forward rather than backwards, and I will not address in detail the assertions that have been made against Mr. Rabbani over the years. However, even if we accepted them, the simple fact is that many of the allegations against Ahmed deal with events that occurred over 20 years ago at this point.

I do wish to make one important point here: the military commissions prosecutors were willing to facilitate his return to Pakistan if he testified against one of the High Value Detainees in the commissions, and we (the defense team) spent a considerable time debriefing Mr. Rabbani with them. Mr. Rabbani made every effort to cooperate over many days. The problem we encountered was that Mr. Rabbani said he could not repeat the statements the prosecutors wanted to hear, because they were falsehoods extracted from him when the EITs were being used on him. He had no problem cooperating – he wanted to – and he knew that if he repeated the lies he had told, he would go home. I think we can agree that it speaks volumes about his honesty that he would not repeat an untruth even though it would set him free.

Mr. Rabbani's health is in a dangerous state. Part of this is brought on by a long term peaceful hunger strike. While people may differ on the propriety of a hunger strike, I can assure the Board that he is motivated only by a desire for justice and he only committed to it after losing patience, more than ten years into his detention.

He was [REDACTED] pounds when originally turned over by the Pakistani authorities. He is now significantly under half that weight. He experiences difficulty [REDACTED] He suffers other serious medical conditions. As attested to by the statement by Dr. [REDACTED] Mr. Rabbani is in significant medical danger. I fear that without an immediate resolution of his case,

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and repatriation to Pakistan where he can receive proper care, that Mr. Rabbani may perish in Guantánamo, which would be a tragedy and would cause our country significant embarrassment with a close ally.

He has also suffered mentally, and we will ensure that when he gets home he will get the therapy that he needs.

Regardless, as a testament to Mr. Rabbani's positive spirit, he has used his time in Guantánamo productively. You are likely aware of his artwork, which is itself extraordinary. I am currently working with Fatima Bhutto, granddaughter of the former prime minister, on an art show that will include, and be inspired by, Mr. Rabbani's works. We have used his talent for art as a kind of therapy for him, and I like to think it has helped.

He has a second very positive outlet, which is a very clear goal for his future. His true dream is to run a restaurant and put his passion for cooking into action. We have therefore been working on a cookbook. Mr. Rabbani was a professional cook before his detention, and has spent the last year adapting some of his older recipes. It is all the more remarkable that he does this [REDACTED] due to his digestive problems. Far from giving in to despair, Mr. Rabbani's devotion to this project demonstrates he will be successful upon release.

I shall certainly help him publish his cook book, and if it makes any money that will help both with [REDACTED] education and with establishing his little restaurant in Karachi. This cookbook is a very realistic project, and I suspect he will sell more copies than I ever do of my books! I have spent the last few weeks sharing his recipes with various professional chefs, who have been testing them, and offering suggestions. This process has been rather mouth-watering, as they send me pictures of some delicious dishes. Overwhelmingly, their responses have been positive, and they have assured me that they will help him promote his talents as a chef upon his release.

Mr. Rabbani has also freely volunteered to submit to "security arrangements" upon his return home. This is something Reprieve has helped facilitate in other cases. It is, in our view, not necessary in any meaningful sense, as we will work closely with Mr. Rabbani to reintegrate him into society, and he will be one of our easiest and most cooperative clients upon his release. However, it allows both the Board and the government of Pakistan additional assurance that all will be well on his repatriation.

I would be remiss if I did not note the significant political changes that have occurred that affect Mr. Rabbani's approach to the Board. When he last appeared before the Board, it was under a President who had made clear that there would be no new transfers from Guantánamo. Mr. Rabbani, along with other detainees, is certainly aware of the recent statements by Secretary of Defense, during his confirmation hearing:

If confirmed, I would reinvigorate the review process using available information to determine whether a detainee no longer poses a continuing significant threat to the security of the United States and whether there is a suitable country

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to which to transfer such a detainee. The Periodic Review Board Process is currently the best means available for making such determinations in a systematic manner. If the PRB process concludes that the threat from individual detainees may be sufficiently mitigated, then the U.S. Government should identify options for the transfer of such detainees to other countries that have provided credible security assurances in accordance with applicable legal and policy requirements.

These statements reveal the new administration's commitment to a fulsome review of a detainee's continuing status. I have discussed this with Mr. Rabbani and he very much wishes to take part in the review - so long as his mental and physical health permits, he will do so in person; regardless, I will do so on his behalf.

Finally, on a personal note, I would like to emphasize that it is truly an honor to appear before this Board on behalf of Mr. Rabbani. Over the many years I have represented him, I have come to know him quite well. He is a thoughtful, kind, and funny man, whose greatest aim in life is to care for his family - and to cook excellent meals to be enjoyed by others.

Sincerely,



Clive Stafford Smith, JD, OBE*

* licenced to practice law in the State of Louisiana

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