

PERIODIC REVIEW BOARD INITIAL HEARING, 09 JUN 2016
ABDUL SAHIR, ISN 753
PERSONAL REPRESENTATIVE OPENING STATEMENT

Good morning ladies and gentlemen of the board. I am the Personal Representative for ISN 753. Thank you for the opportunity to present Abdul Zahir's case this morning.

Abdul has been extremely polite and cooperative from the beginning and has attended all meetings with his Personal Representative. He has become a poet during his time here at Guantanamo Bay and has written many poems, some of which have been submitted to the Board. He has spent a lot of time preparing for this board and has put a great amount of effort into his thoughts and the book that he has developed that he refers to as his "Future Plans." We have submitted a portion of this book as well to show a little bit about how he views the world now.

Abdul has told me that he knows that what he did in the past was wrong, but at the time he was only concerned with feeding his children. He now realizes that his work was not legitimate and has expressed regret for his past decisions. Based on our conversations, I believe that he is not quite as naive as he once was and has grown and learned during his time here at GTMO and will not make the same mistakes again. His only thoughts now are for his two wives and his three children, and the future he hopes to have with them. He is willing to go to any country, but would prefer an Arab country if possible. However more importantly, he wishes to go someplace where it is legal for him to have two wives, because despite his permission for them to leave him and remarry, they have remained faithful to him and he could not bear to leave either behind. He does of course realize that being reunited might take a while and he is prepared to wait as long as he must.

He has support from his family and village as is evident from the many documents we received pledging support. I believe that Abdul Zahir's desire to pursue a better way of life if transferred from Guantanamo is genuine and that he does not represent a continuing or significant threat to the United States of America.

Thank you for your time and attention. I am pleased to answer any questions you may have throughout these proceedings.

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To: Periodic Review Board
In re: Abdul Zahir, ISN 753

My name is Robert Gensburg. I practice law in Saint Johnsbury, Vermont. I have represented Abdul Zahir, ISN 753, since 2005, when I filed a petition for a writ of habeas corpus on his behalf. I respectfully submit that continued law of war detention of Abdul Zahir is not necessary to protect against a continuing significant threat to the security of the United States.

Abdul Zahir is a now 43 or 44 year old citizen of Afghanistan. He has three sons. His oldest son is twenty, and he has never seen the youngest.¹ He supported his family doing odd jobs: driving a taxi, sheep herding, and eventually becoming a full time translator between his government and Abd al Hadi al Iraqi, one of the high value detainees. It is Abdul Zahir's association with al Iraqi that landed him in Guantanamo.

In July of 2002, Abdul Zahir was taken into custody at his home in rural Logar province by United States Army forces. He was held at the Bagram Air Force base prison through October, and then transported to Guantanamo in October of that year. The case file that has been submitted to you accurately describes his behavior during the 14 years of his detention, and I will not belabor that here. While in Guantanamo he developed significant and permanent physical problems, which are cursorily described in the case file. Abdul Zahir also suffers from mental health problems, which lately appear to have been brought under control.

Throughout the 11 years of my association with Abdul Zahir, he has always been polite, calm, friendly and kind to me and the several colleagues who have worked with me on his case. He is uncommonly intelligent and thoughtful, although I think he still does not completely understand why lawyers or personal representatives would take up his cause against their own government. At our initial meeting in early 2006 (and today), I was struck by and came to deeply respect his strong moral compass that has been formed by his devotion to Islam.

The letters of support for Abdul Zahir that are included in the case file demonstrate that he will have very strong support in his community and his family upon his return. I suggest that you should attribute particular importance to the statement of support from Abdul Bari Jahani, Afghanistan's recently appointed Minister of Information and Culture. Minister Jahani is a renowned poet and scholar. He translated for us on some of our conferences with Abdul Zahir, which thrilled our client (and my colleagues and me, too). Minister Jahani was as taken with Abdul Zahir as I was.

I know that the Periodic Review process is a forward looking process, and not a process for rehashing history and protesting innocence. I think it is important for the Board to know, however, that from day one Abdul Zahir has consistently tried to have a hearing before some neutral judge or commission to determine the validity of the claims that the government has made about him. There has been no effort to hide from or avoid those claims. I've had literally years of

¹The case file that has been submitted to you includes pictures of his sons with their grandfather, Abdul Zahir's father-in-law.

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discussions with the Office of Military Commissions and the United States Attorney's office for the Eastern District of New York about Abdul Zahir being given what Judge Henry Friendly called "some kind of hearing."² I've twice written to the OMC convening authority requesting that she and then he charge Abdul Zahir with something, and similarly to General Martins when he was appointed chief prosecutor. Abdul Zahir has been prepared to face the government's claims in any forum for the last 14 years. Had he been given that hearing, it would have become obvious that he does not pose a threat, significant or otherwise, to the security of the United States.

Abdul Zahir's life has been irretrievably damaged. He wants nothing more today than to return to his home and family, to reassemble some kind of normalcy, and to live in peace. As I wrote in the first paragraph, continued law of war detention of Abdul Zahir is not necessary to protect against a continuing significant threat to the security of the United States. I urge the Board to recommend that Abdul Zahir be cleared for release and return to his home and family.

Yours truly,

Robert A. Gensburg

²See 123 U. Pa. L. Rev. 1267 (1975)