

23 December 2008

UA 350/08 Health concern/Legal concernUSA Ahmed Zaid Salem Zuhair (m), Saudi Arabian national, aged 44

Guantánamo detainee Ahmed Zuhair began a hunger-strike in mid-2005, and has been force-fed since August 2005. According to his lawyer, his health has deteriorated significantly since August 2008, and is now a cause for serious concern.

Ahmed Zuhair's lawyer met with him in Guantánamo on 14 and 15 November. On 27 November he filed an emergency motion in US District Court, saying that his client had vomited repeatedly during the first two hours of their meeting, and appeared to have lost about a quarter of his body weight in the past three months, down from 137 pounds (62kg) in August to little over 100 pounds (45kg), and was now about 30 per cent below his medically ideal body weight. He said that Ahmed Zuhair's chest was "skeletal" and his "legs looked like bones with skin wrapped tight around them."

The emergency motion asserted that "Mr Zuhair – who does not physically resist force-feeding – is nevertheless painfully strapped into a six-point restraint chair for each of these twice-daily feeding sessions lasting two hours or more. At the beginning of his hunger strike, Mr Zuhair was force-fed in a bed, without restraints. As Mr Zuhair's counsel have previously brought to this Court's attention, prolonged restraint is medically unnecessary, is uncalled for by Mr Zuhair's conduct, and caused Mr Zuhair severe pain." Ahmed Zuhair began reporting intense stomach pain during force-feeding in mid-2008, telling his lawyer that he suffered pain "like a fire" in his stomach when he received the nutrients. Zuhair also told his lawyer that the restraint chair was like a "saw cutting through my spine."

In a declaration filed with the emergency motion, a doctor who has reviewed the lawyer's observations said that Ahmed Zuhair's medical condition was cause for substantial concern. In particular, the doctor considered that Zuhair's "profound weight loss, associated with constant vomiting, is a serious and potentially life-threatening medical problem which the medical staff at Guantánamo have failed to address."

The emergency motion sought an order from the District Court to force the government to "address, diagnose, and treat the cause of Mr Zuhair's chronic vomiting and to address the concomitant side-effects of his chronic malnutrition." The motion also asked the court to order the government to feed Zuhair with a corn-free solution (in case his vomiting is a result of an allergy to corn), to cease the use of the restraint chair for his force-feeding, to release Zuhair's medical records, and allow him an independent medical examination.

The government opposed the motion, arguing that the District Court did not have jurisdiction to consider the claim. It maintained that, in any event, Zuhair had been provided "timely, compassionate, quality healthcare," and his weight loss was due to "intentional vomiting." It made general allegations about assaults by hunger-striking detainees on guards and medical staff in 2005 and 2006 to justify its use of the restraint chair on Zuhair, who it did not allege had engaged in such misconduct. The government stated that staff at Guantánamo had determined that the use of the restraint chair facilitates the feeding process and protects staff. To grant Ahmed Zuhair's request to end use of the chair against him, it argued, "would potentially place his comfort ahead of the maintenance of his health or the safety of the medical staff".

Ahmed Zuhair has told his lawyer that the restraint chair was introduced as a form of collective punishment. The emergency motion alleges that the Guantánamo authorities have sought to compel Zuhair to end his protest both through the use of force and by conditioning adequate medical treatment on his ending his hunger strike. It claims that on occasion members of the military guard force have conducted the force-feeding of hunger-strikers, and that these personnel had conducted the feeding in a violent manner. Feeding by medical personnel was only resumed, according to the petition, when Zuhair and other detainees began smearing themselves in their own faeces to deter this treatment. The government's opposition to the emergency petition denies that the restraint chair was "being used to punish" Ahmed Zuhair.

On 18 December, District Court Judge Emmett Sullivan ordered the US authorities to allow a court-appointed independent medical expert to examine Ahmed Zuhair. Judge Sullivan ordered the parties to produce a list of proposed medical experts by 24 December. He also ordered the government to release Zuhair's medical records to his lawyers.

According to his 2008 petition for habeas corpus, in late December 2001 Ahmed Zuhair was seized in a market in Lahore, Pakistan, by a dozen men in civilian clothes. He was blindfolded and taken to a house in a residential area of Lahore, where, he said, he was tortured and otherwise ill-treated. In early January 2002, he was transferred to a military facility in the capital, Islamabad, and held incommunicado there for about 10 weeks: in mid-March 2002 he was handed over to US custody and held in Bagram air base in Afghanistan. In June 2002 he was transferred to detention in Kandahar, where he was held for two weeks. He said he was ill-treated in US custody in Afghanistan, including forced prolonged kneeling and stripping during interrogations. He was transported to Guantánamo in mid- to late June 2002. Ahmed Zuhair began his hunger strike in mid-2005, to protest at his indefinite detention without charge and the conditions in which he is detained.

BACKGROUND INFORMATION

About 250 detainees of around 30 nationalities are still held in Guantánamo, most without charge or trial. President-elect Barack Obama has said that one of the measures of the success of his first two years in office will be whether the Guantánamo detention facility is closed down "in a responsible way."

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:

- expressing concern about the health of Guantánamo detainee Ahmed Zuhair;
- welcoming Judge Emmett Sullivan's order for an independent medical examination of Ahmed Zuhair, and calling on the authorities to ensure this is done as soon as possible;
- calling for an immediate end to the use of the restraint chair against Ahmed Zuhair during force feeding;
- calling on the authorities to ensure that Ahmed Zuhair receives all necessary medical treatment;
- calling for the release of Ahmed Zuhair, unless he is immediately charged with recognizably criminal offences for trial in ordinary US federal court.

APPEALS TO:

The Honorable Robert M. Gates
US Secretary of Defense, 1000 Defense Pentagon, Washington DC 20301, USA

Fax: +1 703 571 8951

Salutation: Dear Secretary of Defense

(Until 20 January only)

The Honorable Gregory G. Katsas, Assistant Attorney General, US Department of Justice
950 Pennsylvania Avenue NW, Room 3141, Washington, DC 20530-0001, USA

Fax: +1 202 307 6777; or +1 202 616 8470

Email: Gregory.Katsas@usdoj.org

Salutation: Dear Assistant Attorney General

President George W. Bush, The White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500, USA

Fax: +1 202 456 2461

Email: president@whitehouse.gov

Salutation: Dear Mr President

COPIES TO: diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 2 February 2009. (If appealing after 20 January, send appeals only to Secretary Gates).