

# SHEARMAN & STERLING<sup>LLP</sup>

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June 27, 2007

Hon. William K. Suter  
Clerk  
Supreme Court of the United States  
Washington, D.C. 20543

Re: Khaled A.F. Al Odah v. United States, No. 06-1196

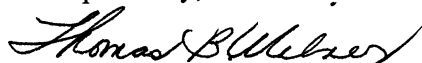
Dear Mr. Suter:

The Solicitor General, in his letter to you of June 26, 2007, notes that the declaration of Lt. Col. Stephen Abraham, appended to petitioners' reply to the government's opposition to the petition for rehearing, is "not part of the record." He implies the Court should not consider it. The Solicitor General also has asked you to distribute to the Court the declaration of Rear Admiral (Retired) James M. McGarrah, which was tendered by the government to the District of Columbia Circuit in the *Bismullah* case, and to which Lt. Col. Abraham's declaration responds.

Petitioners do not object to the distribution of the McGarrah declaration. However, we wish to advise the Court that the McGarrah declaration was not part of the *Bismullah* record. The government tendered it nevertheless because it claimed it "will assist the Court in understanding the process of developing the CSRT record." Gov't Mot. for Leave to File Dec. of Rear Adm. James M. McGarrah at 1 (June 1, 2007). Petitioners submit that the Abraham declaration will assist this Court in understanding the nature and inadequacy of the CSRT process.

I would appreciate it if you would circulate this letter to the Members of the Court.

Respectfully,



Thomas B. Wilner

cc: The Solicitor General

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