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February 26, 2009

President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Re: Innocent Men Held in Guantánamo Bay

Dear President Obama:

On January 21, you took dramatic steps towards restoring the rule of law in America. You ordered that the military prison at Guantánamo Bay be speedily closed. You banned not just torture, nor just cruel and degrading treatment—you banned the legal loopholes that made these abuses possible. You reaffirmed that commitment in your February 24 address to Congress. You have embraced the rule of law by acknowledging that Guantánamo prisoners have a right to their day in court through the writ of *habeas corpus*.

The promise and importance of these principles cannot be overstated. Today, however, we write on behalf of men imprisoned at Guantánamo for whom that promise still seems empty.

We speak as attorneys for twenty men who *won* their federal court cases—not one of them is an enemy of the United States—but who nonetheless are still in the world's most notorious prison. Some have been *and continue to be* beaten and mistreated by their jailers.

Mr. President, we know that you sincerely respect both the Constitution and the Great Writ of *habeas corpus*. Yet the state of affairs is this: federal judges have ordered the government to release almost ten percent of the Guantánamo population. Virtually all of those men remain in prison, some in conditions that insult human dignity. These are innocent men, held in a prison that has become a national shame. As lawyers and Americans, we urge you not to tolerate their continued imprisonment—or to countenance their further abuse.

Consider Lakhdar Boumediene, the lead petitioner in the Supreme Court case *Boumediene v. Bush*. He is one of five men who were not only exonerated by the District Court, but who inspired their judge to plead with the government *not* to appeal their cases. We can put it no better than Judge Richard Leon did that day last November: “seven years is more than plenty.” Three months later, Mr. Boumediene is still in prison. No relief is in sight. Instead of

being freed, for ten days this month he was taken to an isolated cell and forced to sleep and pray on a mat reeking from excrement. Mr. Boumediene has continued a hunger strike to protest his imprisonment. During these ten days, he endured forced feedings, for which he was roughly strapped into a chair that restrained his arms, legs, and head, a tube was rammed through his nostril, and liters of fluids were pumped into his stomach at an alarming rate, forcing him to gag, choke, or vomit.

Another of these innocent men is little more than a boy. Mohammed el Gharani has grown up in Guantánamo—he was just fourteen when seized and sold to the U.S. military. On January 14, Judge Leon ordered his release. On January 15, the government of Chad renewed its official request that he be sent home. Six weeks later, Mr. el Gharani is still in jail, still in isolation, and still bears wounds from ongoing mistreatment. His lawyers saw the cuts with their own eyes.

Mr. President, Mohammed el Gharani should have spent the last seven years in school. His parents in Saudi Arabia weep for their son. He has a country and a family to go home to, a court order for his release, and a sense of humor that will serve him well when he is free at last. Each day he spends in isolation is gratuitous.

Finally, the government concedes that 17 Uighurs still held at Guantanamo Bay are not enemy combatants. Most of these men were cleared for release over five years ago. Over the summer, the U.S. Court of Appeals for the District of Columbia vacated the military's classification of Huzaifa Parhat and four others as "enemy combatants," and ordered that they be released, transferred, or granted a new hearing. The government decided not to hold a new hearing for any of the Uighurs, and instead conceded that—notwithstanding seven years of imprisonment—none of Uighurs are "enemy combatants." Yet the Uighurs still live behind the barbed wire of a United States military prison, with no apparent prospect of freedom.

Mr. President, our clients recognize the challenges you face. But we respectfully submit that finding a home *now* for 20 innocents is a drop in the ocean. So is stopping the ongoing and unacceptable abuse of Messrs. Boumediene and el Gharani.

The continued imprisonment of these men makes us no safer, and it shames America. As you said yourself on January 20: "our security emanates from the justness of our cause."

On behalf of our clients, we therefore respectfully, but urgently, ask:

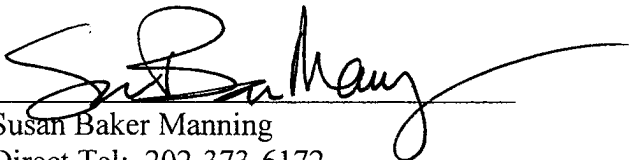
1. that you have all innocent men moved to communal living facilities in Camps 4 or Iguana immediately;
2. that you direct that they be treated humanely, respectfully, and in accordance with law;

3. that allegations of mistreatment be promptly and thoroughly investigated; and
4. that you heed the judgments of the courts of the United States, and immediately restore liberty to these men—be it in Chad, Saudi Arabia, Bosnia, the United States, or any other country acceptable to our clients.

Sincerely,

**BINGHAM MCCUTCHEN LLP**


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