

# Exhibit A

**From:** [Gilligan, Jim \(CIV\)](#)  
**To:** [remesdh@gmail.com](mailto:remesdh@gmail.com)  
**Subject:** ISN 522: Meeting Request  
**Date:** Friday, May 18, 2012 5:26:27 PM  
**Attachments:** [Post-habeas MOU.PDF](#)

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Dear Mr. Remes:

Your revised visit request dated May 10, 2012, included a request to meet with your client, ISN 522, on May 22, 2012, in addition to other detainee-clients with whom you wished to meet. As ISN 522's habeas case has been terminated, your request for a meeting with him cannot be granted except pursuant to and in accordance with the terms of the enclosed Memorandum of Understanding Governing Continued Contact Between Counsel/Translator and Detainee Following Termination of the Detainee's Habeas Case (MOU).

If you wish to maintain privileged contact and communication with your client in accordance with the MOU's terms, please fill in the information requested in paragraphs two, three and five of the MOU, complete and execute the Acknowledgment and Affirmation attached thereto, and forward it to the Staff Judge Advocate at Guantanamo Bay. Upon receipt he will forward it for counter-signature to the Commander, Joint Task Force-Guantanamo, and return a copy of the counter-signed MOU to you. Please send the SJA the original, executed MOU as soon as possible, so as to avoid any delay in scheduling the meeting with your client.

Very truly yours,

Jim Gilligan

James J. Gilligan  
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**MEMORANDUM OF UNDERSTANDING  
GOVERNING CONTINUED CONTACT BETWEEN  
COUNSEL/TRANSLATOR AND DETAINEE FOLLOWING  
TERMINATION OF THE DETAINEE'S HABEAS CASE**

1. On September 11, 2008, Judge Thomas Hogan of the United States District Court for the District of Columbia issued a "Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba" (hereinafter "Habeas Protective Order") to apply to certain habeas corpus proceedings brought by individuals detained by the Department of Defense at Guantanamo Bay.

2. On \_\_\_\_\_, 20\_\_\_, this Protective Order was entered in the habeas case brought by \_\_\_\_\_ (ISN \_\_\_\_\_) (hereinafter "the detainee"), District Court Docket No. \_\_\_-CV-\_\_\_\_\_.

3. The undersigned previously agreed to comply with the terms of the Habeas Protective Order in the case referenced in ¶ 2 above, including ¶ 18, which provides that "[t]he substitution, departure, or removal of any petitioners' counsel from these cases for any reason shall not release that person from the provisions of this Protective Order or the MOU executed in connection with this Protective Order," and ¶ 37, which provides that "[t]he substitution, departure, or removal of petitioners' counsel from these cases for any reason shall not release that person from the provisions of this Protective Order or the Acknowledgment executed in connection with this Protective Order." The undersigned did so by:

a. Signing on \_\_\_\_\_, 20\_\_\_, the "Memorandum of Understanding Regarding Access to Classified National Security Information" (attached to the Habeas Protective Order as Exhibit A, and attached hereto) which stated, *inter alia*, that:

- (1) "I shall never divulge, publish, or reveal either by word, conduct or any other means, such classified documents and information unless specifically authorized in writing to do so by an authorized representative of the United States Government, or as expressly authorized by the [Habeas Protective Order]...."
- (2) "This Memorandum of Understanding and any other non-disclosure agreement signed by me will remain forever binding on me."
- (3) "I have received, read and understand the [Habeas] Protective Order..., and I agree to comply with the provisions thereof."

b. Signing on \_\_\_\_\_, 20\_\_\_, the "Acknowledgment" (attached to the Habeas Protective Order as Exhibit B, and attached hereto) which stated, *inter alia*, that

- (1) I "understand [the] terms [of the Habeas Protective Order], and agree[] to be bound by each of those terms."
- (2) "Specifically, and without limitation, [I] agree[] not to use or disclose any protected information or documents made available to [me] other than as provided by the Protective Order. [I] acknowledge[] that [my] duties under the Protective Order shall survive the termination of this case and are permanently binding, and that failure to comply with the terms of the Protective Order may result in the imposition of sanctions by the Court."

4. Undersigned counsel represents<sup>1</sup> that the detainee in the above referenced terminated habeas case has indicated he desires and has authorized the undersigned's continued legal advice and representation following the termination of that habeas case. Undersigned counsel and translator understand and acknowledge that access to the detainee post-habeas is for the sole purpose of obtaining the detainee's transfer or release from detention by the United States Government at Guantanamo Bay through potential habeas corpus or other litigation in United States federal courts or through discussions with the United States Government. Undersigned counsel and translator also understand that access under this MOU is not authorized for any other purpose, including assisting or representing that detainee in connection with military commission proceedings or Periodic Review Board proceedings under Executive Order 13567 (access for these purposes shall be governed by a separate set of procedures). Undersigned counsel and translator agree to immediately inform the Staff Judge Advocate, Joint Task Force-Guantanamo, if his/her continued affiliation with the detainee are terminated for any reason.

5. Undersigned counsel represents that this continued legal representation [does] [does not] require the participation of a translator to assist the counsel and detainee in communicating about that representation.

6. The undersigned understands and acknowledges that continued access to or communication with the detainee, and/or access to classified or protected information, pursuant to this MOU, is subject to the authority and discretion of the Commander, Joint Task Force-Guantanamo. Failure to comply with the terms of this MOU may result in suspension or termination of the undersigned's access to the U.S. Naval Base at Guantanamo, denial of access to the detainee-client, or suspension/revocation of the undersigned's security clearance.

7. The undersigned hereby reaffirms he/she has read the Habeas Protective Order and reaffirms his/her agreement to continue to abide by its terms.

8. In addition to the continuing obligations imposed by the Habeas Protective Order (and the associated MOU and Acknowledgment) the undersigned agrees to the following for purposes of engaging in the continued legal representation of the detainee, post-habeas, described above:

- a. The procedures and requirements set forth in the Habeas Protective Order apply for correspondence between counsel and the detainee (paragraphs II.D.12-13), materials brought into and out of meetings with the detainee and counsel (paragraphs II.E.14-18), classification determinations of detainee communications (paragraphs II.G.19-24), telephonic access to the detainee (paragraphs II.H.25-27), counsel's and translator's handling and dissemination of information from the detainee (paragraphs II.I.28-31) including classified and protected information (paragraphs I.D.21-33 and I.D.34-45), logistics of counsel visits (paragraph II.C.11), and JTF-Guantanamo security procedures

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<sup>1</sup> The counsel shall provide the Office of the Staff Judge Advocate, Joint Task Force-Guantanamo with the direct authorization and the signed representation required by ¶ II.C.10 of the Habeas Protective Order) and a written statement signed by the detainee stating he has authorized counsel to provide him continued legal representation following the termination of his habeas case, or a sworn declaration signed by the counsel stating the detainee-client has verbally relayed this information to the counsel.

(paragraphs II.J.32-38), except as follows:

- (1) Any classified and/or protected information received pursuant to this MOU shall be used only for the continued legal representation of and advice to the detainee-client for the purpose permitted and contemplated above, except by written permission of the Department of Defense or the appropriate classification authority.
- (2) With the exception of non-legal mail, which shall be sent through the United States Postal Service, all counsel and translator contact with the detainee through oral or written communications must be related to and in furtherance of the continued legal representation of the detainee, as permitted and contemplated above.
- (3) Requests for counsel visits and phone calls shall be submitted to the Staff Judge Advocate, Joint Task Force-Guantanamo.
- (4) All legal mail sent between counsel and the detainee or brought into or out of meetings with the detainee will contain the marking "Post-Habeas" at the beginning of each legal mail marking referenced in the Habeas Protective Order.
- (5) When conducting classification reviews of detainee communications under this MOU, and with counsel's consent, the Habeas Privilege Team may consult with pertinent classification or other authorities in DoD or other agencies if deemed necessary by the Habeas Privilege Team. If counsel refuses to consent, the information for which consultation is required will continue to be handled as classified material.
- (6) The Habeas Privilege Team may designate information as "protected," which means that information cannot be disseminated or transmitted in any form other than as authorized under this MOU or specifically approved by the government. Authorities within the Department of Defense and other agencies may also designate categories of information as "protected" other than in the context of the classification review.
- (7) The Habeas Privilege Team may disclose information obtained through this MOU to designated counsel at DoD and/or DOJ representing the Privilege Team in connection with pending or reasonably anticipated judicial proceedings relating to the information in question. Such DoD and/or DOJ counsel will not disclose the information in question except as required to represent the Privilege Team in such proceedings, and shall take such measures as are necessary to protect privileged material.
- (8) All classified information and documents obtained, created or used in the course of the continued legal representation covered by this MOU shall be maintained in the same Secure Facility in the Washington, D.C. area used by counsel under the Habeas Protective Order.

- (9) All protected information and documents obtained, created or used in the course of the continued legal representation covered by this MOU shall be maintained either in the Secure Facility or by counsel in a manner calculated to prevent any unauthorized disclosure of that material.
  - (10) Except as provided for in this MOU or as specifically authorized by the appropriate government personnel, the counsel and/or translator for the detainee shall not divulge, disclose or distribute classified or protected information to, or receive such information from, any person or entity other than with the co-counsel or translator who is authorized to provide continued legal representation, as permitted and contemplated above, to the same detainee under this MOU.
  - (11) Operational or other resource constraints may result in the extension of processing times for legal mail and materials transmitted under this MOU.
- b. Except as otherwise provided herein, counsel and/or the translator will not have access to any classified documents or information previously obtained or created by counsel or translators as part of the detainee-client's prior habeas case, or during the course of the continued legal representation of the detainee, as permitted and contemplated above. Such material shall be maintained, at the government's discretion, at such facility or facilities as may be deemed necessary and appropriate, including in the Secure Facility, in a manner that protects against the disclosure of attorney-client or attorney work product material. Counsel can request access to this information by submitting the justification for such access to DoD OGC, who will then consult with the pertinent classification authorities within DoD and other agencies for a need-to-know determination.
  - c. The operational needs and logistical constraints at the U.S. Naval Base in Guantanamo Bay, Cuba, as well as requirements for ongoing military commissions, Periodic Review Boards and habeas litigation, will take priority over access and processes governed by this MOU.
  - d. The termination of continued access hereunder for any reason shall not release post-habeas counsel or translators from the provisions of this MOU regarding access to, handling or disclosure of classified or protected information.
  - e. Possession and retention of a valid, current United States security clearance is required for access under this MOU.
  - f. Any disputes regarding the applicability, interpretation, enforcement, compliance with or violations of this MOU shall be resolved in the final and unreviewable discretion of the Commander, Joint Task Force-Guantanamo, in coordination with the Commander, U.S. Southern Command.
  - g. Any unauthorized disclosure of classified information constitutes a violation of United States criminal laws.

9. This MOU is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any detainee, counsel, or any other party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

10. This MOU will not come into effect until counter-signed by the Commander, Joint Task Force-Guantanamo.

**ACKNOWLEDGEMENT AND AFFIRMATION**

The undersigned hereby acknowledges and affirms he/she has read the Habeas Protective Order and reaffirms his/her agreement to abide by those terms that survive the termination of the habeas litigation.

The undersigned hereby acknowledges and affirms that he/she has read the **MEMORANDUM OF UNDERSTANDING GOVERNING CONTINUED CONTACT BETWEEN \_\_\_\_\_ (COUNSEL)(TRANSLATOR) AND \_\_\_\_\_ (ISN \_\_\_\_\_) FOLLOWING TERMINATION OF THE DETAINEE’S HABEAS CASE** (hereinafter “MOU”), understands its terms, and agrees to be bound by each of those terms.

The undersigned acknowledges and affirms that his/her duties under the MOU shall survive the termination of the MOU and are permanently binding, and that failure to comply with the terms of the MOU may result in sanctions described in the MOU, to include but not be limited to immediate denial of access to detainee-client, revocation of counsel’s security clearance, and/or suspension or termination of undersigned’s access to the U.S. Naval Base in Guantanamo Bay, Cuba, within the discretion of the Commander, Joint Task Force-Guantanamo.

Having familiarized him/herself with the applicable statutes, regulations, and orders related to, but not limited to, unauthorized disclosure of classified information, espionage and related offenses; The Intelligence Identities Protection Act, 50 U.S.C. § 421; 18 U.S.C. § 641; 50 U.S.C. § 783; 28 C.F.R. § 17 *et seq.*; Executive Order 13526; and 32 C.F.R § 2001, the undersigned also acknowledges that he/she may be the recipient of classified and/or protected information as a result of entering into the MOU. In consideration for the disclosure of such classified and/or protected information and documents, the undersigned:

1. Agrees that he/she shall never divulge, publish, or reveal either by word, conduct or any other means, such classified documents and information unless specifically authorized in writing to do so by an authorized representative of the United States Government, or as expressly authorized by the MOU.
2. Agrees that this acknowledgment and any other non-disclosure agreement signed by him/her will remain forever binding on him/her.

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
(type or print name here)

Position: \_\_\_\_\_  
(Attorney or translator)

SIGNED: \_\_\_\_\_

COUNTER-SIGNATURE:

\_\_\_\_\_  
Commander, Joint Task Force-Guantanamo

Date: \_\_\_\_\_