

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

**FILED**

JUL 12 2004

LARRY W. PROPPS, CLERK  
CHARLESTON, SC

JOSE PADILLA	)	C/A No. 2:04-2221-26AJ
	)	
Petitioner	)	<b>AFFIDAVIT OF</b>
	)	<b>MICHAEL P. O'CONNELL</b>
<b>-VS-</b>	)	
	)	
COMMANDER C.T. HANFT, USN	)	
Commander, Consolidated Naval	)	
Brig	)	
	)	
Respondent.	)	

Michael P. O'Connell makes the following statements under penalty of perjury:

**INTRODUCTION AND SUMMARY**

1. My purpose in submitting this affidavit is to suggest that this Court appoint Andrew Patel and Donna Newman to represent Jose Padilla in his 28 USC §2241 action filed in this Court. I am willing to act as local counsel and to move their admission to this Court *pro hac vice*.
2. Mr. Patel and Ms. Newman are both members of the New York Bar and admitted to practice before the United State Court for the Southern District of New York. They were appointed to represent Jose Padilla in a Title 28 USC §2241 action brought on his behalf in the Southern District of New York in 2002. They have represented him in the District Court, the Second Circuit Court of Appeals and the Supreme Court which ruled on June 28, 2004 that

Mr. Padilla's action should have been filed in this District. *See, Rumsfeld v. Padilla*, \_\_\_ U.S. \_\_\_, 2004 U.S. Lexis 4759, U.S.L.W. 4584.


3. I am an experienced criminal defense lawyer with extensive experience in this Court and in the Fourth Circuit. I have been practicing in this state continuously since 1975 and the main emphasis in my practice has been criminal defense. I spent a total of 10 years working as a public defender in state court including five years as the executive director of the Charleston County Public Defender. I was also an assistant federal defender in Charleston for five years. I have extensive criminal trial and appellate experience.
4. I have read the Supreme Court briefs submitted by both sides in Mr. Padilla's case.
5. The issues in this case are arcane and probably have not often or ever been encountered by this Court. This Court's burden will be substantially lighter if it has the advantage appointed counsel who have spent the last two years educating themselves about the issues in this case.<sup>1</sup> I can safely say after reviewing the briefs that no criminal defense lawyer I know (including your affiant) would have any more than passing familiarity with the issues presented by Mr. Padilla.
6. If this Court were to appoint lawyers who have no or only passing familiarity with these issues, those lawyers will have to spend a substantial amount of time of educating themselves which is going to be expensive for the

---

<sup>1</sup> The Government has been represented by the Solicitor General and it is anticipated that office will represent the Government in this District.

Government and time consuming. Mr. Patel and Ms. Newman have already done the necessary self-education and have been paid with CJA funds.

7. There is another reason to appoint Mr. Patel and Ms. Newman. Both of them have security clearances which the Government insisted on before they could talk to Mr. Padilla. I am informed that the process of investigating their backgrounds lasted approximately two months.



Michael P. O'Connell

July 12, 2004