

EXHIBIT 2



U.S. Department of Justice
Civil Division
Federal Programs Branch

20 Massachusetts Ave., NW
Washington, D.C. 20503

Andrew Warden
Trial Attorney

Tel: (202) 616-5084
Fax: (202) 616-8706
E-mail: andrew.warden@usdoj.gov

September 24, 2004

Gitanjali S. Gutierrez
Gibbons, Del Deo, Dolan, Griffinger, & Vecchione
One Riverfront Plaza
Newark, New Jersey 07102

Re: Begg et al. v. Bush et al., Civil Action Number 04-1137 (RMC)

Dear Ms. Gutierrez:

I am writing to address several matters concerning which you have inquired.

Your e-mail dated September 15, 2004 requests responses to three issues: 1) assurances that petitioners Begg and Abbasi will not be interrogated concerning their attorney-client meetings; 2) assurances that petitioners Begg and Abbasi will not be interrogated or interviewed in the absence of counsel; and 3) an explanation of the incident with petitioner Begg that occurred after the first habeas counsel visit. With respect to these issues, during your visit to Guantanamo Bay, Mark Metcalf of the Department of Defense and LCDR Matt Diaz provided you with an explanation of the "incident with petitioner Begg" that occurred after your first visit with him.¹ At that same time, Mr. Metcalf and LCDR Diaz explained to you their understanding that during the remainder of that visit, interrogations of petitioners Begg and Abbasi would not be conducted. In any event, neither counsel for the Department of Defense or the Department of Justice in these habeas cases are in a position to provide assurances as to the content or timing of future interrogations of any Guantanamo Bay detainee; counsel and officials connected with the habeas cases do not control or attempt to influence the military's ongoing intelligence gathering and law enforcement missions with respect to Guantanamo Bay detainees.

Further, as explained in our conversation on September 15, 2004, the government has reviewed your proposal concerning incoming mail procedures for petitioners Begg and Abbasi (attachment to letter dated September 9, 2004). Your proposal is similar to the proposal on counsel access suggested by petitioners in Al-Odah et al. v. United States et al. (02-828-CKK), which the government has opposed. For this reason, including those expressed in the government's filings in Al-Odah, the government cannot agree to your proposal.

¹You previously acknowledged your understanding that petitioner Begg had not been interrogated concerning attorney-client communications.

Finally, with respect to the package of documents that you sent to the Department of Justice, Litigation Security Division, at the conclusion of your visit to Guantanamo Bay, we continue to believe these materials should be subject to review by the privilege team in accordance with the applicable Guantanamo Bay access procedures. Nonetheless, given the circumstances that led to the current status and location of these documents, we are agreeable to the documents being considered classified and remaining in secure storage without privilege team review until the parties agree to, or the Court permits, review by the privilege team in accordance with the Guantanamo Bay access procedures or the issue is otherwise resolved.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew I. Warden", with a long horizontal flourish extending to the right.

Andrew I. Warden