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PERIODIC REVIEW BOARD, JUNE 4, 2014

Fawzi Khalid Abdullah Al-Odah, ISN 232

OPENING STATEMENT OF PERSONAL REPRESENTATIVE

Good morning ladies and gentlemen of the board. We are the Personal Representatives for Mr. Fawzi Khalid Abdullah Al-Odah, and will be happy to answer any questions that you may have throughout this proceeding.

As the representatives for Mr. Al-Odah we, in collaboration with Mr. Eric Lewis and Ms. Katherine Toomey, the Private Counsel for this case, have strived to provide you the information that will demonstrate that Fawzi poses no continuing significant threat to the security of the United States. We have had the honor of meeting with Fawzi over the past five months, learning much about him. He is a man who has endured twelve years of detention here at Guantanamo Bay. His family's unwavering support for him and his own father's tireless endeavors to bring his son home has helped sustain Fawzi through his long detention. But it has also made him regret that his circumstances have caused such pain and struggle for his parents. We are also aware that Fawzi has had disciplinary incidents in the past. We have discussed this with him – particularly the apparent change that he underwent a few years ago. He explained to us that he finally realized that he could not continue to perpetually remain frustrated and angered by his long and indefinite detention. He needed to let that mindset go, so that he could rediscover himself again. He continues to work on improving his perspective and has shown extraordinary improvement and maturation in his approach to his detention. During our meetings we have learned that Fawzi is intelligent, genuinely polite and professional, and has been willing to participate throughout. Fawzi has stated repeatedly, and we believe credibly, that he envisions a future for himself as a private citizen who works, is married and has children. Those are his most immediate

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aspirations. We believe that you too will today see his sincerity in wanting to achieve those simple goals.

As we've prepared for this board, Mr. Lewis and Ms. Toomey have worked hand-in-hand with us throughout this process, attending every meeting with Fawzi. In addition, they have traveled to Kuwait to secure witness testimonies and exhibits for the board's consideration, which you have in front of you today, and on which they will soon comment. Fawzi's country, including the highest officials in its government, supports him and has an established rehabilitation program for returning detainees. We believe that the Kuwaiti rehabilitation program, coupled with his family's steadfast support and Fawzi's own peaceful goals - of getting married, starting a family, and working with his father in his plumbing supply business - reveal that Fawzi is indeed a man worthy of selection for transfer. At this time, we would like to introduce Mr. Eric Lewis for his opening statement. Thank you for your time and consideration.

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OPENING STATEMENT OF PRIVATE COUNSEL

My name is Eric Lewis and I am the private counsel for Fawzi Al Odah.

This Board is charged with evaluating whether Fawzi will pose a "continued significant security threat" to the United States. Everything you will hear today confirms that he will not. The Government of Kuwait, Fawzi Al Odah, himself, and Fawzi's family are committed to Fawzi's successful reintegration into his family and society. This will be accomplished through a mandatory one-year residential rehabilitation program, with stringent security and monitoring measures both during the one year and thereafter, as well as through the love and support of his family. This Board can be confident that Fawzi presents no security threat. The unclassified summary identifies only two potential risks – 1) that Fawzi may be in contact with the former detainee Mr. Al Zamel, who is wrongly identified as his cousin; and, 2) that Fawzi will be in contact with other detainees through his father's activities. He will not. These perceived risks are based on entirely mistaken information.

The Government of Kuwait has the clear legal authority to assure that Fawzi returns to a controlled and secure environment and it has given its sovereign commitment to exercise that authority. We have submitted witness statements from some of the highest officials in Kuwait, as well as from the officials who will actually implement the rehabilitation program and security measures. These statements show the depth and breadth of the Government of Kuwait's commitment to Fawzi's safe reintegration into his family and their community. We have submitted written statements from Kuwait's current Foreign Minister and First Deputy Prime Minister of Kuwait, its Minister of the Interior, its previous Foreign Minister, and its Director of Counterterrorism for the Kuwait State Security Service, and its Head of Public Prosecution. In addition, you will hear video testimony from the experienced psychiatrist who is the Director of Treatment at Kuwait's Al Salam Rehabilitation Center. I'm going to quote a number of these statements and for your convenience I've assembled the quotes as Exhibit 16.

The Governments of Kuwait and the United States have engaged in extensive working group discussions to define the following security commitments, which we understand to be acceptable to both governments. The Government of Kuwait will commit Fawzi to a mandatory rehabilitation program within the Kuwait Central Prison for at least one year. General Al Dayeen, the Central Prison Superintendent, describes the extensive security of the Rehabilitation Center in Exhibit 14. It is entirely contained "within the men's high security prison, well inside the security perimeter." As you will see from a video tour of the facility and the videotaped testimony of its Treatment Director, the program is comprehensive, and the facility is secure. The transcripts of these are Exhibits 6 and 7. If Fawzi makes sufficient progress during his first six months, he will spend a minimum of a further six months on day-release. He will be able to work and visit his family during the day and will return to the Rehabilitation

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Center each evening for continued treatment and overnight stay. The Chief Public Prosecutor has authority to commit Fawzi involuntarily to the Rehabilitation Center and absolute discretion over how long he must stay there. In his witness statement, which is in your notebooks at Exhibit 11, he states that, "Fawzi's commitment to the Rehabilitation Center will be for as long as necessary to ensure his own safety, that he is not a danger to others and that he makes satisfactory progress toward reintegrating into Kuwait society as a whole. His commitment is certain to last at least one year."

Even after he is released from the Rehabilitation Center, Fawzi will be required to check in weekly with his local police station. He will be visited at home by the same rehabilitation professionals who treated him in the Rehabilitation Center. He will be subject to extensive security monitoring. Fawzi's internet usage, religious instruction, social networks and financial affairs, among other things, will be monitored. He will surrender his passport and will not be permitted to travel outside Kuwait. He will be subject to electronic and physical surveillance and curfew measures. Sheikh Muhammed Khaled Al Sabah, Kuwait's Minister of the Interior, has submitted a witness statement, which is Exhibit 9. It confirms that Fawzi, "will be under constant security surveillance" after his release from rehabilitation. Colonel Abdullah Al Kandari, Director of Counter Terrorism for the Kuwait Security Services, describes this supervision and monitoring in more detail in his statement, which is Exhibit 10.

All of these security measures provide the Government of Kuwait's concrete assurances that Fawzi cannot and will not present any security threat. After he is released from the program, he accepts that he will be subject to stringent security measures. Fawzi has signed three statements confirming to the Government of Kuwait that he will participate in this program without reservation. These are included, with their translations, in Exhibit 11-B.

The support of Fawzi's family will be crucial as well. Sheikh Mohammed Sabah Al Salem Al Mubarak Al Sabah, until recently the Deputy Prime Minister and Foreign Minister of Kuwait, states in his statement, Exhibit 13, "there is no better or more supportive family to which his son could be returned" and "the Al Odah family will have the full support of the Government of Kuwait to ensure that Fawzi can be reintegrated safely and successfully with his family and the community." As he confirms, Fawzi's repatriation, if it is permitted by this Board, will be accomplished "with strict oversight and security guarantees."

Fawzi is fortunate to have a strong family support structure in Kuwait. His family is well known in his community. His father and mother, brothers and sisters, nieces and nephews remain in close contact with him through the International Committee of the Red Cross. You will see his mother and father and a sister testify on video how they will take responsibility for Fawzi's reintegration.

- Parents of course love their children, but few have shown the powerful commitment that Fawzi's parents have. You will meet on video his mother, Suad, who taught geography for many years at the leading girls' high school in Kuwait. Fawzi is her oldest child and she has a special bond with him. His absence has been searing for her, as you would expect. A transcript of her statement is Exhibit 3.

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- His father, Khaled Al Odah, is a retired Kuwaiti Air Force colonel and businessman. He established and is the head of the Family Committee that has worked tirelessly for twelve years for due process for Fawzi and other Kuwaiti detainees. Khaled trained at Webb Air Force Base in Big Spring, Texas. He supported U.S. troops in liberating Kuwait from Saddam Hussein. You will see him on video and the transcript of his statement is Exhibit 2.
- Fawzi feels overwhelming loyalty and gratitude toward his family for standing by him during his lengthy detention. After his rehabilitation, Fawzi will follow custom and live with them until—and possibly even after—he marries.
- Fawzi spent most of his twenties and thirties as a prisoner and, not surprisingly, he wants to get married. His mother and sisters are already looking for the right woman to introduce to Fawzi. He wants a family of his own.
- Fawzi has a degree from the University of Kuwait. He speaks English and has worked on improving it during his twelve years at Guantanamo. He is committed to working full-time after he is released from the Rehabilitation Center. He will begin in his father's plumbing supply business.
- When he first came to GTMO, Fawzi was a very young man. He had worked only a few years following his graduation from college. He worked first as a social worker for a government-funded charitable agency, then taught in a prison, and finally worked as an instructor at a government-run adult education school.
- Like nearly all Kuwaitis, Fawzi is an observant Muslim. He is not an extremist. We have submitted the statement of Dr. Al-Tabtabai, which is Exhibit 15. He taught Islamic law to Fawzi at the University of Kuwait. He makes clear that Fawzi is a peaceful and tolerant man. Fawzi will be counseled by religious officials while at the Rehabilitation Center and thereafter he will be monitored at the mosque he attends. You will see a witness statement of Dr. Al Otaibi, which is Exhibit 12. He is a Professor at the University of Kuwait and a leading clergyman in Kuwait. He has great experience counseling young men who are at risk of falling into extremist views. He has met with Fawzi four times as part of the official Kuwaiti delegation. He reports that during those meetings Fawzi "did not express any radical or extreme religious concepts, nor did he state any anti-American views." He concluded that Fawzi's "understanding of Islam falls well within the mainstream."

The Government's comprehensive and mandatory security and rehabilitation program is designed to control and obviate any risk posed by Fawzi. But let's look at the specific risks that the unclassified summary identifies. First, that Fawzi might be encouraged to engage in extremism because of his potential association with a past detainee – Adel Zamel Al Zamel (ISN 568) – who is erroneously identified as Fawzi's cousin; and second, that Fawzi might continue to have contact with other previously returned Kuwaiti detainees because Fawzi's father, as head of the Family Committee, is in contact with them. These statements are mistaken. I cannot speak to Mr. Al Zamel's current activities, but he is NOT Fawzi's cousin, as Fawzi and his father will both testify. Fawzi is not related to Mr. Al Zamel or to any other detainee. He has had no contact with Al Zamel since his release. Fawzi has no reason to have contact with Al Zamel and has no intention of doing so.

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Second, Fawzi's father's activities with Kuwaiti detainees have been entirely lawful, and are all focused on helping detainees adopt and follow a moderate set of beliefs and successfully reintegrate into Kuwaiti society. He wants all transferred detainees to abandon any extremism and to live quiet and peaceful lives. And he puts his time and energy into achieving this goal. Khaled's activities appear in the unclassified summary as a potential risk. This is precisely backwards. In fact, Khaled will be a great help to Fawzi in avoiding potential risk in the future. But you will also hear that once Fawzi comes home, Khaled and Fawzi will be focused solely on successfully reintegrating Fawzi. As you will hear, neither father nor son will have any contact with returned detainees.

Finally, while we understand that this proceeding is looking forward, inevitably this Board will look at Fawzi's entire history, including his time at Guantanamo. In that regard, I ask that you consider these factors.

- Fawzi is a man of dignity who has been living under very difficult and uncertain circumstances for a very long time. Adjustment to prison life has not always been smooth for him. There have been times in earlier years when he has been upset and angry, has shouted or acted out, when he threw food and more. He participated in the hunger strike. Fawzi is the educated son of a middle-class family—he was not raised to adapt to being a prisoner and did not always do well in that difficult role. Through his own choices and because of his own wish to stop being angry and to reclaim his personality and self-control, he has become much calmer over the years. His disciplinary record reflects that fact. Importantly, however, we are not here to consider whether Fawzi was good at being a passive prisoner; we are here to consider what he will be like as a citizen looking forward.
- Fawzi is not and has never been a terrorist. Things have been said about him over the years that are nonsense: people who have proven themselves, time and again, to be unreliable have said that he was part of terrorist groups in places where he has never been. We are not here to discuss what happened long ago, but this Board should be aware that these accusations are simply incorrect. Some of these I will need to address in the classified portion of this proceeding. As I mentioned, the unclassified summary incorrectly identifies Mr. Al Zamel as Fawzi's cousin. What else is wrong? The unclassified summary references assertions that he belonged to an Al Qaida cell in London. It references these, even though it expressly indicates a lack of confidence in such statements. But it does not state the key fact contradicting this allegation -- Fawzi has never been to London. The unclassified summary fails to state that, far from being detained at the heart of the action in Afghanistan, Fawzi was taken into custody by Pakistani guards at the border in Pakistan. In other words, he was already leaving Afghanistan when he was taken into custody. He was not staying there to fight.
- The unclassified summary states Fawzi has "not provided valuable information about Al Qaida's operations in Afghanistan and Pakistan." But even if everything in the summary were fully accurate, which we do not accept, there is nothing to suggest that he would have been in a position to even possess valuable information.

In sum, the allegations against him put him in places he never was, create family associations that never existed, and fault him for failing to provide information he never had.

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Fawzi is committed to returning to Kuwait and resuming his life after an extensive period of treatment in the Rehabilitation Center. Fawzi has spent twelve years at Guantanamo. Nothing in the record suggests that, in 2014, he presents any security risk to the United States, Kuwait or anywhere else. Fawzi has affirmed he will cooperate with his rehabilitation program. He will not challenge his commitment to the Rehabilitation Center. But in addition, the security measures and family structure already in place will assure it.

I would leave you not with my words, but with the words of the Director of Counterterrorism for the Kuwait State Security Service, the person charged with assessing and evaluating the risk that any person will be a terrorist threat. If you look at Exhibit 10, you will see the following statement, "As an intelligence official, I cannot speak with 100% certainty concerning whether a detainee will engage in extremist activities. Nevertheless, I have extensive experience in dealing with extremists and, based on my meetings with Fawzi Al Odah, it is my best judgment that there is no material risk that Fawzi Al Odah will engage in terrorist activity, but we will of course remain vigilant to prevent such activity in any event."

In these circumstances, we submit there is no basis to continue to detain Fawzi Al Odah at Guantanamo. All pre-requisites for his transfer to Government of Kuwait are now in place. Accordingly, we request that Fawzi Al Odah be transferred to the custody of the Government of Kuwait pursuant to the rehabilitation program, security restrictions and conditions that are described in the statements we have submitted.

Thank you for your consideration.