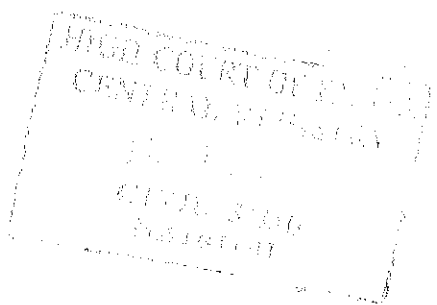


189 1112108  
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AFFIDAVIT



This is the affidavit of Zachary P. Katznelson sworn on 4<sup>th</sup> February 2009

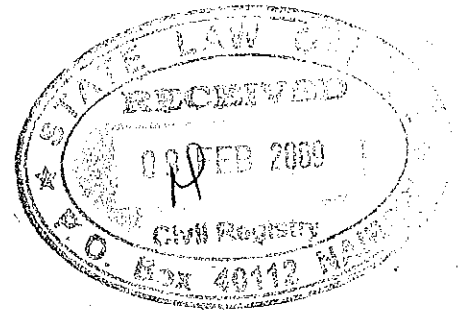
Before me,

*C Livingston*

Notary Public

**Catharine May Livingston**  
Notary Public  
50 Victoria Embankment  
London EC4Y 0LS  
UNITED KINGDOM

Tel: +44 (0)20 7842 8000



IN THE MATTER OF: CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS  
UNDER SECTIONS 70, 72, 74, 77 & 81 OF THE CONSTITUTION OF  
KENYA

**BETWEEN**

MARIAM MOHAMED  
SALIM KHAMIS JUMA  
(ON BEHALF OF MOHAMED ABDULMALIK:  
THE SUBJECT).....PETITIONERS

-VERSUS-

1. THE COMMISSIONER OF POLICE  
2. THE HON. ATTORNEY GENERAL.....RESPONDENTS

**SUPPLEMENTARY AFFIDAVIT**

I, ZACHARY KATZNELSON, whose true address is 22 Tudor Street, London, EC4Y 0AY,  
United Kingdom, do hereby make oath and state as follows:-

1. THAT I am an attorney at law practicing as such for the legal charity Reprieve based in London, United Kingdom. I attach herewith certified copy of my current practice certificate marked "ZK1".
2. THAT I have been working for more than three years on cases of persons who have been rendered from various countries to the US prison at the Naval Base in Guantanamo Bay, Cuba.
3. THAT on April 16, 2008 and June 27, 2008 I visited and interviewed the Subject herein MOHAMED ABDULMALIK in prison at the US Naval Base in Guantanamo Bay in Cuba and I am therefore competent to swear this affidavit on matters the Subject personally informed me. I attach herewith marked "ZK2" certified copy of the authority given to me by US prison officials at Guantanamo Bay to visit and interview the Subject.
4. THAT my said interviews with the Subject were the first interviews he has given to a civilian person since he was arrested in Mombasa, Kenya, on 13<sup>th</sup> February 2007.

THAT during the interviews the Subject herein MOHAMED ABDULMALIK informed me which information I verily believe to be true that:

- i) He is a citizen of Kenya born in 1973 in Kisumu, Kenya, on the shores of Lake Victoria.
- ii) His internment serial number (prisoner number) at Guantanamo Bay detention facility is 10025.
- iii) In the morning of 13<sup>th</sup> February 2007 he was violently arrested while having breakfast at Ramadhan Café in Mombasa, Kenya, by a squad of about ten (10) Kenyan police officers attached to the Anti-Terrorist Police Unit (ATPU).
- iv) The officers were in plainclothes and heavily armed with assorted firearms, which they drew and trained on his head in the course of the arrest.
- v) The arresting officers violently and brutally dragged him out of the café, knocked him down on the pavement, crushed their boots on his head, and choked him so hard that he was dazed.
- vi) In the course of the brutal arrest he was injured on the head and elbows.
- vii) At the time of his arrest the arresting officers did not inform him of the reasons for the arrest.
- viii) In the course of his arrest, the officers frisked him and took away his wallet, USD 5,000, and his mobile phone, none of which were ever returned to him.
- x) Upon being arrested, he was tightly handcuffed with plastic cuffs that cut into his wrists, and bundled into one of three waiting vehicles.
- x) After the arrest at Ramadhan Café he was immediately driven to Port Police Station, Mombasa where he was detained in a cell still tightly handcuffed. He spent the night on the bare concrete floor without bedding.
- xi) He was interrogated for the first time during the day on 14<sup>th</sup> February 2007 at Port Police Station, Mombasa, when he was accused of planning to bomb the planned Mombasa Marathon, an accusation that he vehemently denied.
- cii) In the course of the said interrogation he saw three (3) white men whom he suspected to be Americans and who were following the interrogation while standing outside at the door of the interrogation room.
- iii) That night of 14<sup>th</sup> February 2007, he was hooded, shackled and flown to Nairobi under the escort of ATPU officers.

- xiv) Upon landing in Nairobi he was driven to Ong'ata Rongai Police Station in the outskirts of Nairobi where he was detained still handcuffed, and with his legs manacled.
- xv) He was detained in solitary confinement, sleeping on a bare concrete floor without bedding. Tight handcuffs dug and cut into his wrists.
- xvi) In the course of his interrogation at Ong'ata Rongai Police Station, the ATPU officers accused him of associating with one FAZUL, an alleged international terrorist wanted in connection with the bombing of the US Embassy in Nairobi in August 1998, an allegation that he vehemently denied.
- xvii) The ATPU officers threatened to beat him and kill him unless he confessed to their accusations. He was completely terrified by the threats.
- xviii) On approximately 15<sup>th</sup> February 2007 the ATPU officers presented him before a lady magistrate in chambers at the Chief Magistrate's Court at Kibera purporting that he was willing to voluntarily confess to the bombing of the Paradise Hotel in Kikambala, Mombasa in 2002. After the magistrate read out the charge and explained to him the caution that, under the law, he was not obliged to say anything unless he voluntarily wished to and that whatever he said might be used in evidence, he declined to make a false confession. He explained to the magistrate that he was in Mogadishu in Somalia during the said bombing. Thereafter, he was led away from the court by the ATPU officers.
- xix) From Kibera Court, he was taken back to Ong'ata Rongai Police Station whilst in handcuffs and blindfolded; the ATPU officers were angry with him and kept threatening him that, "*we will now show you*" and "*we will now kill you.*"
- xx) He was detained for a further five (5) days or thereabout at Ong'ata Rongai Police Station and the ATPU officers continued to interrogate him about his alleged association with FAZUL and other persons unknown to him.
- xxi) In the course of his detention at Ong'ata Rongai Police Station he tried to contact the Muslim Human Rights Forum using a fellow inmate's mobile phone but was unsuccessful as the organization's phone went unanswered. However, he gave a written note to an inmate who was released to take it to the Imams of Jamia Mosque in Nairobi.
- xxii) From Ong'ata Rongai Police Station, he was transferred to Hardy Police Station in Karen, Nairobi, still in handcuffs, his legs manacled, and his head hooded. He was detained there for five days or thereabout together with several other Muslims who had been arrested fleeing the war in Somalia.

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- xxiii) On the evening of 24<sup>th</sup> February 2007 while detained at Hardy Police Station he was visited by a member of staff of the Muslim Human Rights Forum one OMAR MOHAMED whom he talked to very briefly before he was quickly returned to the cell. He was never allowed to be visited by any other Kenyan concerned about his plight.
- xxiv) On the 26<sup>th</sup> or 27<sup>th</sup> February 2007 again hooded, in handcuffs and leg manacles, he was transferred from Hardy Police Station to Spring Valley Police Station.
- xxv) In the night of 28<sup>th</sup> February 2007 he was taken from the cells at Spring Valley Police Station by a squad of ATPU officers who included one INSPECTOR WANJALA who told him to *"prepare to go to another world, now you will forget Africa – you will go to Israel, America and Germany – goodbye Africa."* He was told he would be beaten until he gave information. He was told he would be killed. He was blindfolded and mufflers placed on his ears. He was driven to an airport in Nairobi.
- xxvi) Upon arrival at the airport the ATPU officers handed him over to a group of white men who were standing beside an aircraft which, from the corner of his blindfold, he saw bore the US Flag on its side.
- xxvii) He was placed inside the aircraft by a squad of about ten (10) American officers who stripped him naked, put him in a diaper, dressed him in a tracksuit, shackled both his wrists and legs and added more blindfolds. Then the aircraft took off.
- xxviii) At one point whilst airborne the American soldiers carried him to the aircraft door and made as if to throw him out, before hauling him back inside. They chained him to the floor of the aircraft with his face down. He was forced to stay the rest of the journey in that position. His nose and mouth were covered; he could hardly breathe.
- xxix) From Nairobi, the aircraft flew for about three (3) hours and landed at what he believes is a US Military Base in Djibouti. He was served with water bearing the label, *"Made in Djibouti"* and the interrogation room contained maps of Somalia and Djibouti with posters reading, *"Reptiles of the Horn of Africa."*
- xxx) At the US Military Base in Djibouti he was interrogated by a team of American officers who accused him of being connected with international terrorists all over the world, an accusation that he vehemently denied. The interrogators told him that he was going to be detained there in a cage for ten (10) years.
- xxxi) On a subsequent interrogation in the US Military Base in Djibouti he was again accused of planning to bomb the Mombasa Marathon and when he denied the accusation he was told that unless he told them what they wanted to hear he had two possible journeys; *"one back to your family or another that is very, very*

*long. If you don't want to tell us what we want to hear, you will have a long, long journey; you will spend your life in a cage."*

xxxii) He was detained in Djibouti shackled both in his wrists and legs and interrogated in turns by American officers in batches of four (4) until he lost count of the interrogations or the number of days he was detained there.

xxxiii) From Djibouti he was flown to a detention centre at the US Military Base in Bagram in Afghanistan. He was flown in a US cargo plane whilst shackled on the wrists and legs and chained to the floor of the plane face down in the same manner he was flown out of Nairobi.

xxxiv) While in Bagram he was detained in solitary confinement in a small wooden cell the size of an animal pen with no windows, exposed to extreme cold, and fed on either dry or frozen food. He was not allowed to sleep properly. He was interrogated every three or four hours by American officers who accused him of planning to bomb the Mombasa Marathon. He could not tell day from night. He became totally disoriented and confused, and was forced to falsely confess to matters he did not know and cannot remember.

xxxv) He asked for a lawyer several times, but was not allowed to speak to one.

xxxvi) From Bagram he was flown to a detention centre at the US Military Base in Kabul still in Afghanistan. He was flown to Kabul in a US cargo plane, again while shackled on the wrists and legs and chained to the floor of the plane facing down.

xxxvii) While in Kabul he was again denied sleep and ceaselessly interrogated by American officers. The officers also tried to compel him to confess to matters he does not know nor remember.

xxxviii) From Kabul he was drugged, shackled, hooded and flown to the US Prison at the Naval Base in Guantanamo Bay, Cuba.

xxxix) He was detained in solitary confinement for at least the first two (2) months of his detention in Guantanamo Bay.

xl) He has been subjected to repeated interrogations since he was detained at Guantanamo Bay.

xli) No specific charges have ever been brought against him nor has he been presented before a judicial tribunal or a court of law since his detention.

xlii) Sometime in February 2008 FBI interrogators informed him that they were convinced he had not been involved in any terrorist activities and that there is no reason why he should be in detention in Guantanamo Bay.

Katznelson

INNN

xliii) Since he was rendered from Nairobi he has had no contact from any official of the Government of Kenya.


THAT due to United States Military restrictions on the mailing of even legal material to and from Guantánamo Bay prisoners, it is impossible to have the Subject herein MOHAMED ABDULMALIK sign this document personally in a timely manner.

THAT on 22<sup>nd</sup> January 2009 the President of the United States Mr. Barack Obama publicly issued an Executive Order directing the closure of the Guantanamo Bay detention facility within one year.

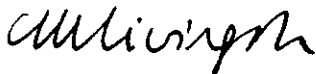
THAT unless the Government of Kenya takes urgent positive steps to intercede with the US Government on behalf of the Subject, the Executive Order for closure of Guantanamo Bay will further complicate the fate and liberty of the Subject.

Save for the information given to me the source whereof is fully disclosed hereinabove, the facts deponed to herein are true and within my own knowledge.

ORN in LONDON by the said  
MARY KATZNELSON  
4<sup>th</sup> day of February 2009



FORE ME:-



**Catharine May Livingston**  
Notary Public  
50 Victoria Embankment  
London EC4Y 0LS  
UNITED KINGDOM

NOTARY PUBLIC Tel: +44 (0)20 7842 8000

DRAWN & FILED BY:-

BUGUA MUREITHI & CO. ADVOCATES  
SEM TRUST HOUSE, 4<sup>TH</sup> FLOOR  
ASABA ROAD, OFF BUNYALA ROAD  
MURURHILL, NEXT TO BARCLAY CARD  
CENTRE & NIC BANK  
P.O. BOX 52969 (00200)  
NAIROBI.



**TO BE SERVED UPON:-**

THE HON. ATTORNEY GENERAL  
ATTORNEY GENERAL'S CHAMBERS  
STATE LAW OFFICE  
SHERIA HOUSE  
**NAIROBI**

*(Your Ref: CP/169/08)*

EXHIBIT 1

This is the exhibit marked "ZK1" referred to in the affidavit of  
Zachary Katznelson sworn on *4th February* 2009

Before me,

*C Livingston*

.....  
Notary Public

**Catharine May Livingston**  
Notary Public  
50 Victoria Embankment  
London EC4Y 0LS  
UNITED KINGDOM

**Tel: +44 (0)20 7842 8000**

# THE STATE BAR OF CALIFORNIA

Tuesday, February 3, 2009

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## ATTORNEY SEARCH

### Zachary Philip Katznelson - #209489

#### Current Status: Active

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This member is active and may practice law in California.

See below for more details.

#### Profile Information

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<b>Bar Number</b>	209489	<b>Phone Number</b>	11442073534640
<b>Address</b>	Reprive PO Box 52742 London EC4P 4WS UNITED KINGDOM	<b>Fax Number</b>	11442073534641
		<b>e-mail</b>	zachary@reprive.org.uk
<b>District</b>	Outside California	<b>Undergraduate School</b>	Brown Univ; Providence RI
<b>County</b>	Non-California	<b>Law School</b>	New York Univ SOL; New York NY
<b>Sections</b>	None		

#### Status History

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Effective Date	Status Change
<i>Present</i>	Active
12/4/2000	Admitted to The State Bar of California

Explanation of member status

#### Actions Affecting Eligibility to Practice Law

---

##### Disciplinary and Related Actions

This member has no public record of discipline.

##### Administrative Actions

This member has no public record of administrative actions.

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Katznelson

9. COUNTRY-SPECIFIC REQUIREMENTS:

GUANTANAMO BAY:

REQUIRED: YES

NOTES:

10. MISSION POINT OF CONTACT

RANK: N/A

NAME: SHANNON LLENZA

TITLE: ASSOCIATE DEPUTY GENERAL COUNSEL

ORGANIZATION: DOD OGC

COMMERCIAL PHONE: XXX

DSN PHONE: N/A

COMMERCIAL FAX: N/A

DSN FAX: N/A

EMAIL: XXX@DODGC.OSD.MIL

ADDRESS: 1099 14TH STREET  
WASHINGTON, DC 20005

11. IF PERSONAL INFORMATION IS REQUIRED (E.G., SOCIAL SECURITY NUMBER, BIRTHPLACE), PERSONAL DATA - PRIVACY ACT OF 1974 APPLIES.

BT

#0000

Katznelson

DSN PHONE: XXX

DSN FAX: N/A

EMAIL: XXX@JTFGTMO.SOUTHCOM.MIL

6. SUPPORT AND SOURCE OF FUNDING:

A. LOGISTICAL SUPPORT:

GUANTANAMO BAY:

NOTES:

B. SPONSORING AGENCY:

DOD

7. STATEMENTS:

A. SPECIAL AREA CLEARANCE:

GUANTANAMO BAY:

REQUIRED: YES

NOTES:

THEATER-SPECIFIC REQUIREMENTS:

GUANTANAMO BAY:

REQUIRED: YES

NOTES:

Katznelson

KATZNELSON, ZACHARY

4. PURPOSE OF TRAVEL:

A. DESCRIPTION:

KATZNELSON  
JUNE VISIT

B. PURPOSE:

HABEAS COUNSEL MEET WITH DETAINEE FOR HABEAS LITIGATION

C. CLASSIFICATION:

UNCLASSIFIED

D. NOTES:

E. IF LEAD TIME REQUIREMENT IS NOT MET, PROVIDE REASON:

5. ORGANIZATIONS:

GUANTANAMO BAY

A. NAME: JTF-GTMO

ADDRESS: SJA OFFICE JTF-GTMO

B. POC: XXX

RANK: MSGT

TITLE: NCOIC, SJA

POC ORGANIZATION: SJA, JTF-GTMO

COM PHONE: XXX

COM FAX: N/A

Katznelson April

YUW RUEACTA0000 0912008-UUUU--RUEASUU.

UUUU

MAR 08

USSOUTHCOM J3 MIAMI FL

NAVBASE GUANTANAMO BAY CU//13/60//

PORT

ELAS

SUBJECT: PERSONNEL REQUEST CLEARANCE

COUNTRIES:

GUANTANAMO BAY

PEOPLE TRAVELING: ( HIGHEST RANK FIRST )

A NAME: KATZNELSON, ZACHARY

- 1) CATEGORY: OTHER
- 2) RANK: N/A
- 3) TITLE: ATTORNEY
- 4) ORGANIZATION: N/A
- 5) SECURITY CLEARANCE: SECRET
- 6) CITIZENSHIP: US
- 7) AT/FP TRAINING DATE:

DATES OF TRAVEL AND ITINERARY

COUNTRY	LOCATION	ARRIVAL	DEPARTURE
GUANTANAMO BAY	GUANTANAMO BAY	1530L 07 APR08	1900L 16 APR08

EXHIBIT 2

This is the exhibit marked "ZK2" referred to in the affidavit of  
Zachary Katznelson sworn on *4th February* 2009

Before me,

*Catharine May Livingston*

.....  
Notary Public

**Catharine May Livingston**  
Notary Public  
50 Victoria Embankment  
London EC4Y 0LS  
UNITED KINGDOM

**Tel: +44 (0)20 7842 8000**