

Opening Statement of Private Counsel Theresa Duncan

My name is Theresa Duncan and I am private counsel for Mohamedou Ould Slahi. I have represented Mohamedou for over a decade. In that time, I have come to know Mohamedou well, having spent hundreds of hours meeting with him. I also know members of his family well, as I have spoken with them many times and visited them for two weeks in Mauritania in 2014.

Mohamedou does not present any threat to the United States nor has he ever taken any hostile action against our country. In all the years I have known him, Mohamedou has never even expressed hostility to the United States or its people. Despite all that the U.S. government has done to him, Mohamedou has made clear he holds no grudge against anyone at Guantanamo. Indeed, as noted in his book, *Guantanamo Diary*, Mohamedou dreams to one day have tea with the military personnel he met at Guantanamo "after having learned so much from one another."

I am happy to address in detail any allegations against Mohamedou, and Mohamedou is too. We expect much of that will need to be covered in the closed session. However, I wish to make two general points in response to the unclassified Guantanamo Detainee Profile. First, the allegations in that profile were also made in Mohamedou's habeas case. The court rejected those allegations as a basis for the government's detention of Mohamedou. In 2010, after reviewing all the government's evidence and listening to Mohamedou testify under oath for a day and a half, federal Judge James Robertson concluded Mohamedou was not a member of al Qaeda at the time of his capture in 2001 and ordered his immediate release.¹ Although the government appealed that decision and Mohamedou's case was then sent back to the district court, Judge Robertson remains the only independent person to have reviewed all the evidence in the case to date. Relatedly, a former chief prosecutor for the military commissions investigated the case against Mohamedou and concluded, "there is absolutely no evidence that Mr. Slahi ever engaged in any acts of hostility towards the United States."

Second, the allegations regarding Mohamedou's travels to and actions in Afghanistan in the early 1990s must be considered in their historical context. To this end, we have submitted a report from an expert in the field of terrorism. This expert spent seven years as a case officer with the CIA, most of which was devoted to supporting the Afghan insurgency against the communists in the 1980s and 90s. He explains the differences between al Qaeda in the early 1990s, when it and the United States were aligned, and the al Qaeda that came into being much later, with which Mohamedou played no part.

Mohamedou has had no disciplinary infractions at Guantanamo. None. But perhaps what is most striking about Mohamedou's interactions with detention staff are

¹ Judge Robertson ruled on three Guantanamo habeas petitions before retiring in 2010. Mohamedou's was the only petition Judge Robertson granted. Ironically, the two men whose petitions Judge Robertson denied have been released from Guantanamo.

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the meaningful relationships he developed with individual people. Over the years, military personnel have given him books, movies, clothing, and other souvenirs to mark those relationships. I have personally witnessed the warm interactions between Mohamedou and the men and women who guard him. Included in the materials we have submitted to the Board is a letter from a former guard who writes that, based on his interactions with Mohamedou at Guantanamo, he "would like to eventually see [Mohamedou] again" and "would be pleased to welcome" Mohamedou into his home.

Mohamedou has also developed deep and enduring relationships with his lawyers. As my co-counsel, Nancy Hollander, writes in her submission to you: "If I could invite him to my home in the US, I would gladly have him stay with me as long as he wished." I feel the same way. Mohamedou has become a dear friend to me and to Nancy. Before I visited Mauritania, Mohamedou told his family about me to help them prepare for my visit. I was touched by the special meals the family prepared at Mohamedou's request and by the care I was shown throughout my visit. It reminded me of the care Mohamedou has always shown Nancy, me and others during our visits with him.

At Guantanamo, Mohamedou has continued his education and worked to stay abreast of developments in computer technology. At his request, detention staff and counsel have provided Mohamedou with computer programming books. For years, he had access to a computer that he used to practice his skills. He has perfected his English and learned Spanish and Turkish. He reads voraciously, writes fiction and poetry, and has begun studying art as a way to keep his mind active. Mohamedou is a natural teacher. Over the years he has helped guards and other detainees with their studies. During his phone calls with his family, Mohamedou encourages his nieces and nephews to continue their education and I know he looks forward to helping them with their studies when he is released.

Mohamedou has a large support network committed not just to his peaceful reintegration after release, but to helping him achieve personal and professional success, either in Mauritania, his home country, or in Germany, where he once lived and still thinks of as a home. We have provided a letter confirming that the Mauritanian government will welcome him home if he is returned there. Mauritania has a history of successfully reintegrating former Guantanamo prisoners, having done so twice before. We have included declarations from two former Guantanamo detainees describing their positive experiences upon their return to Mauritania. Mohamedou's friends and family have committed to provide him with personal support. Two friends, one who works for the Mauritanian government and another who is a respected physician, have committed to help him secure employment. Mohamedou's oldest brother can provide him employment as an accountant in his retail business. His youngest brother is a German citizen who would provide housing and other support should Mohamedou be released to Germany. Mohamedou also wants a career as a writer regardless of where he lives. The American editor of his book has committed to work with Mohamedou on future literary projects.

Mohamedou's legal team is fully committed to providing whatever assistance is necessary to assure his success. Nancy and I intend to travel to wherever Mohamedou is

sent and to stay as long as necessary to help him restart his life. Our co-counsel at the ACLU will visit him, too, and will provide reintegration support, including through their connections within the international NGO community. A board-certified psychiatrist, who is a retired Brigadier General, has submitted information to you about Mohamedou's resilience and positive capacity for reintegration. To help ensure a successful transition from years of detention, he has agreed to travel to wherever Mohamedou is sent and to spend several weeks with him to assist in his transition.

The unclassified profile expresses a concern that Mohamedou's relation to Abu Hafs al Mauritani "could provide him with an opportunity to reengage, should he decide to do so." This concern is misplaced. There is no evidence that Mohamedou seeks to do anything other than live a peaceful, productive life after his release from Guantanamo. And as Abu Hafs explains in the declaration we submitted to you, he cooperated with American authorities upon his return to Mauritania in 2012, meeting with members of the FBI over the course of two months. Since then, he has had no contact with law enforcement and lives a peaceful life in Mauritania.

In conclusion, Mohamedou will not pose any threat to the United States if he is released. He is poised to contribute to his family and his community. He has the support of his family and friends, including those of us who have gotten to know him at Guantanamo. I hope that you will understand why that is when you talk with him today. We ask you to approve Mohamedou's transfer from Guantanamo.

Thank you.