Exhibit 4
LEILA N. SADAT; K. ALEXA KOENIG; NAOMI ROHT-ARRIAZA; and STEVEN M. WATT,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; ANTONY J. BLINKEN, in his official capacity as Secretary of State; U.S. DEPARTMENT OF THE TREASURY; JANET L. YELLEN, in her official capacity as Secretary of the Treasury; U.S. DEPARTMENT OF JUSTICE; MERRICK GARLAND, in his official capacity as Attorney General; OFFICE OF FOREIGN ASSETS CONTROL; and BRADLEY T. SMITH, in his official capacity as Acting Director of the Office of Foreign Assets Control,

Defendants.¹

¹ Pursuant to Federal Rule of Civil Procedure 25(d), the Defendants originally named in this action have been substituted with the names of their successors in office.
I, Steven M. Watt, hereby declare as follows:

1. I am a plaintiff in the above-captioned action.

2. I am a Senior Staff Attorney with the Human Rights Program at the American Civil Liberties Union (“ACLU”). I have served in this role since November 2004. I reside in Brooklyn, New York, and am a citizen of the United States and the United Kingdom.

3. At the ACLU, my practice has focused specifically on the representation of individuals that have been subject to torture, extraordinary rendition, and inhumane interrogation programs at the hands of U.S. military and intelligence personnel in the aftermath of the 9/11 attacks. My practice also touches on issues relating to human trafficking and forced labor, juvenile justice, women’s and immigrants’ rights, and prison conditions.

4. Among the clients that I represent are six individuals who were victims of crimes committed by CIA and U.S. military personnel in Afghanistan: Khaled El-Masri, Suleiman Abdullah Salim, Obaid Ullah (as personal representative of Gul Rahman), Mohamed Ahmed Ben Soud, Khaled Al-Sharif, and Majid Maghrebi. My work on behalf of these clients includes litigation in U.S. federal courts, the filing of Freedom of Information Act Requests, and advocacy before the Inter-American Commission on Human Rights and the International Criminal Court (“ICC”).

5. In 2013, I was contacted by the Head of the Situation Analysis Section of the Jurisdiction, Complementarity and Cooperation Division of the Office of the Prosecutor (“OTP”) of the ICC, Emeric Rogier, who reports to Fatou Bensouda, the Prosecutor of the ICC and the head of the OTP. Mr. Rogier contacted me in connection with a petition that I had submitted on behalf of three clients before the Inter-American Commission on Human Rights. I subsequently provided Mr. Rogier’s office with background information about the petition, including evidence supporting allegations of war crimes committed by U.S. personnel in Afghanistan during the period relevant to the OTP’s preliminary examination into alleged war crimes and crimes against humanity committed in Afghanistan, which encompasses the period beginning on May 1, 2003.

6. In November 2015, members of the OTP team conducting the preliminary examination contacted me regarding three clients that I represented in U.S. federal court litigation concerning alleged
war crimes committed by the CIA in Afghanistan during the period relevant to the OTP’s preliminary examination. During subsequent discussions with that OTP team, I provided information and evidence regarding alleged war crimes and crimes against humanity committed by U.S. personnel against my clients in Afghanistan. These exchanges took the form of email exchanges and telephonic conferences.

7. In January 2018, in support of Ms. Bensouda’s request for authorization under Article 15 of the Rome Statute to pursue a formal investigation into the situation in Afghanistan, I prepared and submitted victim representation forms on behalf of Mssrs. El-Masri, Salim, Ullah, Ben Soud, Al-Sharif, and Maghrebi. I filed these forms with the ICC’s Victims Participation and Reparations Section (“Victims Section”), a unit of the ICC’s Registry organ that works closely with the OTP and facilitates the submission of victims’ impact statements and evidence to the Pre-Trial Chamber in support of the Prosecutor’s request to open an investigation. After submitting these forms, I also continued to submit new documentary evidence of alleged U.S. war crimes and crimes against humanity in Afghanistan to the OTP via the Victims Section. Ms. Bensouda’s request to the Pre-Trial Chamber for authorization of an investigation into the situation in Afghanistan specifically cited three ACLU cases, and evidence from one such case, in which I represented torture victims and survivors. I provided information about, and supporting evidence from, these cases to the OTP.

8. In March 2020, the ICC’s Appeals Chamber authorized Ms. Bensouda to open an investigation into alleged war crimes and crimes against humanity committed in Afghanistan or in connection with the armed conflict there. Following that decision, I applied for victim representative status to participate in investigation-stage proceedings on behalf of Mssrs. El-Masri, Salim, Ullah, Ben Soud, Al-Sharif, and Maghrebi. As of September 2020, I had received confirmation that the Victims Section had granted three of my clients—Mssrs. Salim, Ben Soud, and Al-Sharif—victim status with respect to the investigation phase of the Afghanistan situation. The Victims Section informed me that it required additional information before it could grant victim status to my remaining clients.

9. The threat of enforcement of civil and criminal penalties under the International Emergency Powers Act (“IEEPA”) for violations of the Executive Order and Regulations has caused me to cease these engagements with the OTP and to abandon plans for future acts that I would have undertaken
but for the designations of Ms. Bensouda and Phakiso Mochochoko, the Director of the OTP’s Jurisdiction, Complementary, and Cooperation Division.

10. In particular, I have ceased all engagement with the OTP and other ICC personnel; abandoned plans to provide to the OTP additional documentary and other evidence of war crimes and crimes against humanity allegedly committed by U.S. personnel in Afghanistan; declined to respond to the Victims Section’s request for additional information about my clients; and abandoned any plans, if necessary, to file motions before the Pre-Trial Chamber to seek information from the Prosecutor on the Afghanistan investigation. I have also had to cease my legal representation of Mssrs. El-Masri, Salim, Obaid Ullah, Ben Soud, Al-Sharif, and Maghrebi with respect to the ICC’s Afghanistan proceedings, so long as the Executive Order and Designations remain in effect.

11. If not for the Executive Order, Designations, and Regulations, I would have performed these actions both in the United States and abroad, and in the process would have communicated and exchanged materials with people in other countries via the Internet or telephonically. I intend to immediately resume engaging with the OTP and the ICC if the Executive Order, Designations, and Regulations are enjoined or rescinded.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Brooklyn, New York on March 11, 2021.

__________________________
Steven M. Watt