IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

O.K., **Petitioner,** **v.** **GEORGE W. BUSH,** **President of the United States,** ***et. al.*,** **Respondents.**	**Civil Action No. 04-CV-1136(JDB)**

APPLICATION FOR PRELIMINARY INJUNCTION TO ENJOIN INTERROGATION, TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OF PETITIONER (ORAL ARGUMENT REQUESTED)

Petitioner O.K., a Canadian citizen detained at Guantánamo Bay, Cuba and who has been in U.S. custody since he was a 15-year-old boy, respectfully moves this Court pursuant to Federal Rule of Civil Procedure 65(a) and Local Civil Rule 65.1 to enjoin Respondents and their agents from (1) interrogating Petitioner, or (2) torturing Petitioner or engaging in other cruel, inhuman, or degrading treatment of him. Such relief is necessary in order to preserve the physical and mental integrity of Petitioner, pursuant to his due process rights under U.S. and international law. To the extent necessary in order to grant this relief, Petitioner also moves the Court to lift or modify the stay entered in this case. The reasons for this motion are stated in the accompanying memorandum of points and authorities. A proposed order is attached.

Petitioner requests oral argument on this application.

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Dated: March 21, 2005

Respectfully submitted,

/s/

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MEMORANDUM IN SUPPORT OF APPLICATION FOR PRELIMINARY INJUNCTION TO ENJOIN INTERROGATION, TORTURE AND OTHER CRUEL, INHUMAN, AND DEGRADING TREATMENT OF PETITIONER

With every passing day, the record of torture, abuse, and mistreatment of detainees at Guantánamo Bay becomes increasingly difficult to ignore. While Respondents dissemble on the question of their treatment of detainees, other government officials describe Guantánamo in brutally honest terms. An FBI agent labels interrogation techniques at Guantánamo as "torture," the general counsel of the U.S. Navy describes them as "unlawful and unworthy of the military services," and the director of the CIA testifies to Congress that he is unable to provide assurances that his agency has not engaged in torture in the aftermath of the September 11 attacks. Based on specific factual allegations by Petitioner, as well as this irrefutable record of torture and abuse at Guantánamo, the present motion seeks from this Court the barest form of protection—the preservation of his physical and mental integrity, in the face of ongoing threats, violence, and abuse masquerading as Respondents' "interrogation techniques."

Petitioner O.K. hereby applies for injunctive relief pursuant to Federal Rule of Civil Procedure 65(a) and Local Civil Rule 65.1, in order to protect his physical and mental integrity from irreparable harm. Such relief is warranted in light of substantial evidence suggesting that Petitioner, a 15-year-old boy when he was taken into U.S. custody nearly three years ago, has already been subjected to torture and other cruel, inhuman, and degrading treatment by Respondents in the course of their unending interrogations of him. This has included (1) short-shackling Petitioner in multiple, painful positions for prolonged periods of time; (2) threats of rape against the teenaged Petitioner; (3) the use of dogs against him; (4) other forced degrading acts; and (5) threats of rendition to third countries for torture. Recent correspondence from Petitioner indicates that the abuse continues. Such gross mistreatment is in direct violation of Petitioner's due process rights, as alleged in Petitioner's First Amended Petition for *Habeas Corpus*, those due process rights having been upheld by Judge Green in her decision of January 31, 2005.

In light of the repeated and extensive abuse that has been inflicted on the teenaged Petitioner in the course of Respondents' interrogations of him, and the prospect of such abuse continuing, cessation of all interrogations is necessary and appropriate because the equities for such relief weigh heavily in O.K.'s favor. Should the Court decline to grant this relief, it should at the very least enjoin Respondents from engaging in torture or other cruel, inhuman, or degrading treatment of Petitioner. Although the District Court has issued a stay in this litigation, that stay should not operate to permit future mistreatment of Petitioner. Thus, Petitioner requests that the stay be lifted or modified to the extent necessary in order to grant the relief sought here.

Should Respondents contest this motion by disputing the factual basis supporting it, Petitioner requests the Court to permit limited discovery of any records pertaining to

Respondents' interrogations of Petitioner, any statements made by Petitioner while in their control or custody, and Petitioner's complete medical records.[1]

FACTUAL BACKGROUND

Petitioner O.K., a Canadian citizen, was a 15-year-old boy when he was first taken into U.S. custody. He was transported to Guantánamo Bay, Cuba at the age of 16 and is now 18 years old. Despite his youth, Petitioner has in all material respects been treated as an adult by Respondents. *See Letter of Deputy Assistant Attorney General Thomas R. Lee to Honorable Joyce Hens Green,* Sept. 3, 2004, at n.1 (dkt. no. 25) (stating that O.K. "has been treated as other non-juvenile detainees"). According to information Petitioner provided to his counsel, Petitioner has been severely abused, both physically and mentally, throughout the period of his detention. Such abuse has included subjecting Petitioner to severe and prolonged physical pain, threats of "extraordinary rendition" to countries where Petitioner was told he would be tortured and raped, and incidents of extreme humiliation. Petitioner's claims are corroborated by documents from the Federal Bureau of Investigation, statements from top officials within the U.S. Navy, reports of the International Committee of the Red Cross, and accounts of other detainees at Guantánamo. Moreover, a review of counsel's interview notes with Petitioner by an expert in developmental psychology of juveniles in confinement has concluded that Petitioner suffers from symptoms consistent with torture and abuse, and that further torture and abuse would place him at risk for irreversible psychiatric disorder.

[1] Pursuant to Local Civil Rule 7(m), on March 17, 2005, counsel for Petitioner requested in writing that Respondents agree to cease interrogating Petitioner, and to cease all future abuse and mistreatment. In a subsequent telephone conversation, counsel for Respondents agreed to forward Petitioner's allegations of abuse to the Department of Defense, but would not agree to stop interrogation or take any other remedial action, and thus opposes Petitioner's motion. *See* Declaration of Muneer I. Ahmad ("Ahmad Decl.") ¶ 11.

Petitioner was taken into U.S. custody in Afghanistan in or around July 2002, and has been detained at Guantánamo since October of 2002. Throughout his detention, he has been kept in solitary confinement, subjected to the same treatment as adult detainees, and held virtually *incommunicado*, without access to his family or counsel. On July 2, 2004, following the Supreme Court's decision in *Rasul v. Bush*, 124 S. Ct. 2686 (2004), Petitioner through his next friend, Fatmah Elsamnah, filed a petition for *habeas corpus* (dkt. no. 1). On August 17, 2004, a First Amended Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief ("First Amended Petition") (dkt. no. 11) was filed, claiming, *inter alia*, that Respondents had violated Petitioner's due process rights by detaining and subjecting him to torture and other cruel, inhuman, and degrading treatment. First Amended Petition, ¶¶ 34-37,60-63, 67-71, 77-79.

In November 2004, following over two years of confinement, Petitioner was allowed for the first time to meet with undersigned counsel. Declaration of Muneer I. Ahmad ("Ahmad Decl."), attached hereto as Exhibit A, ¶ 3. To date, the meetings in November 2004 are the only ones which counsel has had with Petitioner. Upon conclusion of their meetings with Petitioner on November 10, 2004, counsel were required to give their notes to military officials at Guantánamo, for transport to the secure site in Virginia. *Id.* ¶ 4. In violation of the Counsel Access Procedures[2] issued by the Honorable Joyce Hens Green, which require counsel's notes to be "mailed in the manner required for classified materials" within two business days of completion of counsel's visit to Guantánamo, Respondents had no information about the whereabouts of the notes until they appeared, by regular postal service, on December 16, 2004. *Id.* ¶¶ 4-5. Pursuant to the Counsel Access Procedures, counsel for Petitioner submitted the notes to the privilege team for review on December 30, 2004, and on January 12, 2005, was

[2] *See In re Guantanamo Detainee Cases*, 344 F. Supp. 2d 174 (D..D.C. 2004).

informed that 14 of the 23 paragraphs of notes were classified. *Id.* ¶ 6. After this determination was challenged by Petitioner's counsel, the memo was unclassified in its entirety by the Privilege Team on January 28, 2005. *Id.* ¶¶ 7-8.

The teenaged Petitioner has been interrogated innumerable times by Respondents for nearly three years. He reports numerous instances of severe physical and mental abuse inflicted in the course of Respondents' interrogations of him. Among the abuses Petitioner described are the following:

- Petitioner reported that around March 2003, when he was 17 years old, he was removed from his cell in the middle of the night and brought to an interrogation room. Military police "short-shackled" his hands and ankles by handcuffing his feet and ankles together, and then both to a bolt in the floor, and then forced him into various stress positions, such as lying on his stomach with his hands and feet cuffed together behind his back. He was left in these stress positions for a period of hours, and because he was not allowed to use the washroom, eventually urinated on the floor and upon himself and his clothing. Military Police then poured a pine oil solvent onto the floor and onto Petitioner. With Petitioner on his stomach and his hands and feet cuffed together behind his neck, they used Petitioner as a human mop, dragging him back and forth across the floor through the mixture of urine and pine oil. After he was returned to his cell, Petitioner was not allowed a change of clothes for two days. This was one of several times that Petitioner was forced to soil himself during an interrogation, and one of several times that he was short-shackled in painful positions for long periods of time. Ahmad Decl., Exh. 1, ¶ 15.

- Petitioner reported that on multiple occasions, interrogators threatened him with rape. During one interrogation that Petitioner remembered had occurred around the time of Ramadan in 2003 (which occurred on October 24, 2003), an Afghan man, claiming to be from the Afghan government but wearing an American flag on his trousers, told Petitioner that he would be sent to Afghanistan, and that "they like small boys in Afghanistan." Before leaving the interrogation room, the interrogator, who said his name was "Izmarai" and that he was from Wardeq, Afghanistan, took a piece of paper on which Petitioner's picture appeared and wrote on it in the Pashto language, "This detainee must be transferred to Bagram," referring to the U.S. Air Force base outside of Kabul. In another interrogation in 2003, an interrogator told O.K. that he would be sent to Egypt where Egyptian authorities would send in "Askri raqm tisa"—Arabic for "Soldier Number 9"—which the interrogator explained to Petitioner was a man who would be sent to rape him. *Id.* ¶¶ 10-12.
- O.K. reported that interrogators threatened to send him to another country—Israel, Egypt, Syria, or Jordan—where he would be tortured, if he did not answer the interrogators' questions. *Id.* ¶ 12.
- Petitioner reported that at times he was left in interrogation rooms for ten hours at a time. *Id.* ¶ 14.
- Petitioner reported that he was subject to temperature extremes. Just before Ramadan in 2003, following his interrogation by Canadian intelligence officials at Guantánamo, Petitioner was confined in a room so cold that it was "like a refrigerator." *Id.* ¶ 9.

- The teenaged O.K. reported that following his capture in Afghanistan, military officials brought barking dogs into the interrogation room while his head was covered with a bag. In the Bagram Air Force base detention facility he was also forced to stand with his hands tied above the door frame for several hours at a time, was made to clean the floors on his hands and knees, made to carry heavy buckets of water, and made to urinate on himself. Petitioner reported that during this time he was still in a great deal of physical pain from the gunshot wounds he suffered at the time of his capture. Ahmad Decl., Exh. 1, ¶¶ 16-17.

Although these allegations, and others, *see* Ahmad Decl. Exh. 1, were reported to undersigned counsel in November 2004, more recent correspondence from Petitioner suggests that the threat of abuse and mistreatment of Petitioner persists. In a letter dated January 13, 2005, and received by undersigned counsel on February 7, 2005, Petitioner reported that following the visit of undersigned counsel with him, Petitioner was interrogated each day for four days in a row. Ahmad Decl. ¶ 9, Exh. 2 ¶ 1. In addition, Petitioner reported that interrogators again subjected him to extreme cold temperatures, threatened to remove his clothes, and used extreme physical force against him for refusing to provide false answers demanded by his interrogators. *Id.* ¶¶ 2-5.

The allegations of abuse that Petitioner has made are corroborated by recently released documents from the Federal Bureau of Investigation. For example, email correspondence from FBI officials at Guantánamo, recently released by the Government in Freedom of Information Act litigation initiated by the American Civil Liberties Union, speaks of "torture techniques" used by military officials impersonating FBI agents. FBI Email to Gary Bald, et al., Dec. 5,

2003, available at http://www.aclu.org/torturefoia/released/FBI.121504.3977.pdf. Another FBI email provides the following narrative:

> Here is a brief summary of what I observed at GTMO. On a couple of occasions, I entered interview rooms to find a detainee chained hand a foot in a fetal position to the floor, with no chair, food, or water. Most times they had urinated or defecated on themselves and had been left there for 18 [-] 24 hours or more. On one occasion, the air conditioning had been turned down so far and the temperature was so cold in the room, that the barefooted detainee was shaking with cold. . . . On another occasion, the A/C had been turned off, making the temperature in the unventilated room probably well over 100 degrees. The detainee was almost unconscious on the floor with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night. . . .

Email from REDACTED to REDACTED, August 2, 2004, available at http://www.aclu.org/torturefoia/released/FBI.121504.5053.pdf. While not identical to the allegations made by Petitioner, this FBI summary describes several tactics also reported by Petitioner, including short-shackling in stress positions, exposure to extreme temperatures, prolonged periods in interrogation rooms, and the forcing of detainees to urinate on themselves.

In even more recent reports, the Navy's general counsel has described interrogation techniques at Guantánamo as "unlawful and unworthy of the military services," and a top Navy psychologist described the techniques as "abusive". *See* Charlie Savage, *Abuse led Navy to consider pulling Cuba interrogators*, Boston Globe, March 16, 2005, at A1 (reporting statements of Alberto Mora, General Counsel to the Navy, and Dr. Michael Gelles, chief psychologist of the Navy Criminal Investigative Service). Similarly, the International Committee of the Red Cross[3] has complained of tactics of psychological and physical coercion at Guantánamo that are

[3] The International Committee of the Red Cross (ICRC) is an independent humanitarian organization based in Geneva, which has special status recognized under the Geneva Conventions and their Additional Protocols. Those international instruments assign specific tasks to the ICRC, including visiting prisoners of war and civilian internees. *See* Dieter Fleck, ed., *The Handbook of Humanitarian Law in Armed Conflicts* 547 (1995). In practice, the ICRC is "the organ which monitors observance of the four Geneva Conventions and both Additional Protocols." *Id.*

"tantamount to torture." *See* Neil A. Lewis, *Red Cross Finds Detainee Abuse at Guantánamo,* New York Times, Nov. 30, 2004, at A1.

In just the past several weeks, numerous other detainees at Guantánamo have attested to similar instances of torture and abuse. *See, e.g.,* Neil A. Lewis, *Fresh Details Emerge on Harsh Methods at Guantanamo,* New York Times, Jan. 1, 2005, at A11 (reporting statements of former interrogator that one in six Guantánamo detainees were subject to harsh conditions, including "inmates being shackled for hours and left to soil themselves while exposed to blaring music or the insistent meowing of a cat-food commercial"); Carol D. Leonnig and Glenn Frankel, *U.S. to Send 5 Detainees Home From Guantanamo; Australian, Four Britons Allege Abuse,* Washington Post, Jan. 12, 2005, at A1 (reporting allegations of detainee abuse including "use of frigid and stifling temperatures, short shackles and random beatings"); Raymond Bonner, *Detainee Says He Was Tortured in U.S. Custody,* New York Times, Feb. 12, 2005, at A1(reporting allegations that Americans hit detainee's head against the floor at Guantánamo, and subjected him to sexual humiliation); *see also* Carol D. Leonnig and Dana Priest, *Detainees Accuse Female Interrogators; Pentagon Inquiry Is Said to Confirm Muslims' Accounts of Sexual Tactics at Guantanamo,* Washington Post, Feb. 10, 2005, at A1 (reporting a Pentagon investigation's finding that interrogators smeared fake menstrual blood on detainees and touched them inappropriately, and reporting similar allegations by detainees).

Immediately upon obtaining a declassification determination of their interview notes with Petitioner, undersigned counsel provided a copy of those notes to Dr. Eric W. Trupin, an expert in issues relating to juvenile isolation, including the long-term effects of trauma, torture, and physical and mental abuse on juveniles such as Petitioner. Ahmad Decl. ¶ 8; Declaration of Eric W. Trupin, Ph.D. ("Trupin Decl."), attached hereto as Exhibit B, ¶ 17. Dr. Trupin, who also

serves as an expert-consultant to the U.S. Department of Justice, Civil Rights Division Special Litigation Section, concluded that Petitioner's symptoms, including psychotic symptoms such as delusions and hallucinations, suicidal behavior, and intense paranoia, indicate that he likely suffers from a significant mental disorder, including post-traumatic stress disorder and depression. Trupin Decl. ¶¶ 19, 24. Dr. Trupin has evaluated O.K. to be at a "moderate to high risk for suicide" and notes that if O.K. is subjected to further interrogation, he is "likely to deteriorate and become increasingly thought disordered and suicidal." *Id.* ¶¶22-23. Dr. Trupin concluded that Petitioner's symptoms are "consistent with those exhibited by victims of torture and abuse." *Id.* ¶ 24. He also concluded that the harsh interrogation techniques used against an adolescent such as Petitioner is "potentially catastrophic to his future development," placing him at risk for "significant risk for future psychiatric deterioration," "including irreversible psychiatric symptoms and disorders, such as a psychosis with treatment-resistant hallucinations, paranoid delusions and persistent self-harming attempts." *Id.* ¶¶ 26-27. Dr. Trupin also notes that the harsh interrogation techniques Petitioner has already experienced, coupled with the threat of future mistreatment, make Petitioner "particularly susceptible to mental coercion." *Id.* ¶ 25.

Notably, the symptoms observed by undersigned counsel and assessed by Dr. Trupin differ markedly from the conclusory summary of Petitioner's medical condition at Guantánamo, provided by Respondents earlier in this litigation.[4] *See O.K. v. Bush*, 344 F. Supp. 2d 44 (2004). Those documents, which alleged that Petitioner was in good health, made no mention whatsoever of the fact that Petitioner has had periodic thoughts of suicide (Trupin Decl., Exh. 1,

[4] On August 18, 2004, in opposition to Petitioner's Emergency Motion to Compel the Government to Allow an Independent Medical Evaluation and to Produce Medical Records (dkt. no. 8), Respondents filed with the court a declaration from Dr. John S. Edmondson, Commander of the U.S. Navy Hospital at Guantánamo, dated August 17, 2004, and a two-page document entitled "Healthcare Services Evaluation," dated August 14, 2004 (dkt no. 12).

¶ 21d); has had psychopathic symptoms, including hallucinations and delusions (*Id.* ¶¶ 21g, 21h, and 21m); and suffers from well-known, medically recognized symptoms of Post-Traumatic Stress Disorder (PTSD) (Trupin Decl. ¶ 19).[5] With the information now available about Petitioner's true health status, it is clear that Respondents' medical records are, at best, utterly inaccurate.[6]

Taken together, Petitioner's allegations, reports from the FBI, the U.S. Navy, and the International Committee of the Red Cross, allegations from other detainees, and the psychological impact evaluation of Dr. Trupin provide a detailed, corroborated account of a juvenile who has been subject to torture and abuse in the course of interrogation, who faces the threat of future such mistreatment, and who will suffer irreparable injury if such threats continue or such treatment recurs.

ARGUMENT

Injunctive relief is appropriate where, as here, (i) petitioner likely would suffer irreparable injury if this Court does not grant injunctive relief, (ii) the injunction would cause no irreparable harm to the respondents, (iii) such an injunction would serve the public interest; and

[5] Rather, Respondents records merely state that Petitioner "has been followed by Behavioral Health Services for a diagnosis of adjustment disorder and narcissistic traits" and that he "has a history of adjustment disorder and personality disorder, but does not currently require care by the Behavioral Health Services." *See* Declaration of Dr. John S. Edmondson, Exhibit A (unredacted, filed under seal) to Respondents' Response to Petitioner's Emergency Motion to Compel the Government to Allow an Independent Medical Evaluation and to Produce Medical Records (dkt. no. 12).

[6] Since Petitioner filed his Emergency Motion regarding medical access, further allegations have emerged of the complicity of Guantánamo medical personnel in the interrogation of detainees. On January 5, 2005, the New England Journal of Medicine reported that medical personnel at Guantánamo Bay do not believe they "act as physicians and are therefore not bound by patient-oriented ethics. Physicians assigned to military intelligence [believe they] … have no doctor–patient relationship with detainees and, in the absence of life-threatening emergency, have no obligation to offer medical aid." M. Gregg Bloche and Jonathan H. Marks, *When Doctors Go to War*, 352 New England J. Medicine (January 6, 2005), *available at* http://content.nejm.org/cgi/content/full/352/1/3 (recounting interviews with Guantánamo medical personnel and Dr. David Tornberg, Deputy Assistant Secretary of Defense for Health Affairs). While the authors consider it "premature" to conclude that doctors at Guantánamo "participated in torture," they believe "there is probable cause for suspecting it." *Id.*

(iv) petitioner's claims have a substantial likelihood of success on the merits. *See, e.g., Al Fayed v. CIA*, 254 F.3d 300, 303 (D.C. Cir. 2001); *Serono Labs. Inc. v. Shalala*, 158 F.3d 1313, 1317-18 (D.C. Cir. 1998). These factors are to be balanced against one another, with a recognition that all four need not be equally strong. *Serono Labs*, 158 F.3d at 1318; *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 746 (D.C. Cir.1995) ("If the arguments for one factor are particularly strong, an injunction may issue even if the arguments in other areas are rather weak").

In the present case, Petitioner faces a significant risk of "irreversible psychiatric symptoms and disorders," not to mention further physical suffering and injury, through torture and other forms of cruel, inhuman, and degrading treatment. Trupin Decl. ¶ 27. In light of the abuse Petitioner has already experienced, and the emerging record of such gross mistreatment of other detainees at Guantánamo, this factor alone should be sufficient to merit the requested injunctive relief. Moreover, each of the remaining factors militate in Petitioner's favor: the government cannot claim that it will suffer irreparable harm if enjoined from engaging in illegal conduct, an injunction against abuse and mistreatment of Petitioner serves the public interest in upholding due process of law, and the decisions of the Supreme Court in *Rasul v. Bush* and of this Court, per Judge Green, on Respondents' motion to dismiss, establishes that Petitioner has at least a substantial likelihood in succeeding on his due process claims.

Because the abuse of Petitioner to date has occurred in the course of Respondents' use of violent and coercive "interrogation techniques," the appropriate remedy for ensuring the prevention of further torture and abuse is to enjoin further interrogation of Petitioner. At a bare minimum, the Court should enjoin Respondents from engaging in torture and other cruel, inhuman and degrading treatment of Petitioner.

To the extent the Court deems it necessary in order to consider and resolve this motion, the Court should lift or modify the stay of the coordinated Guantánamo Bay Detainee proceedings contemplated in the Court's February 3 Order.

I. The Preliminary Injunction Factors Weigh Heavily in Favor of Protecting Petitioner Against Torture and Abuse

A. In the Absence of Injunctive Relief, Petitioner is Likely to Experience Further Torture and Abuse While in U.S. Custody

It cannot be seriously disputed that if Petitioner were subjected to torture or other cruel, inhuman, or degrading treatment, he would be irreparably harmed.[7] Moreover, the likelihood of such harm occurring in the absence of injunctive relief is established by four sources of

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[7] 18 U.S.C. § 2340 provides the following definition of torture and related terms:

> As used in this chapter--
>
> (1) "torture" means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;
> (2) "severe mental pain or suffering" means the prolonged mental harm caused by or resulting from--
> (A) the intentional infliction or threatened infliction of severe physical pain or suffering;
> (B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;
> (C) the threat of imminent death; or
> (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality ….

18 U.S.C. § 2340 (2004). In addition, the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment ("CAT") provides the following definition:

> For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

1988 U.S.T. LEXIS 202 (April 18, 1988).

evidence: detailed allegations by the Petitioner himself of repeated instances of torture and other forms of cruel, inhuman, and degrading treatment while at Guantánamo; corroboration of past abuse at Guantánamo provided by statements of FBI agents, Naval officials, and the International Committee of the Red Cross; allegations of abuse by other detainees at Guantánamo; and a recent letter from Petitioner to his counsel suggesting that abuse continues.

In order to obtain injunctive relief, Petitioner need not establish that irreparable injury is certain. Rather, "[t]he necessary determination is that there exists *some cognizable danger* of recurrent violation, something more than the mere possibility…." *U.S. v. W.T. Grant Co.*, 345 U.S. 629, 633 (1953) (emphasis added). Thus, injunctive relief may be granted "even if there is a relatively slight showing of irreparable injury," so long as there is "some injury" and other factors are particularly strong. *CityFed Fin. Corp.*, 58 F.3d at 747 (internal citation omitted). Moreover, as the Supreme Court has noted repeatedly, "'one does not have to await the consummation of threatened injury to obtain preventive relief.'" *Farmer v. Brennan*, 511 U.S. 825, 845 (1994) (quoting *Pennsylvania v. West Virginia*, 262 U.S. 553, 593 (1923)). When viewed within the rapidly developing picture of rampant abuse of detainees at Guantánamo, Petitioner's allegations of past abuse, coupled with emerging evidence that such abuse is recurring, are sufficient in and of themselves to warrant issuing of an injunction.

While the specificity of Petitioner's allegations of torture and abuse, as well as his most recent correspondence with counsel, themselves establish a likelihood that he will experience further irreparable harm, this conclusion is all the stronger in light of the government's own accounts, as well as those of the independent, humanitarian organization, the International Committee of the Red Cross. The consistency of accounts of abuse, from a diverse range of sources, makes government denials of abuse at Guantánamo increasingly difficult to swallow.

Moreover, there is no reason to believe that Petitioner—whom the government insists is not protected by *any* law whatsoever—will not face similar abuse in the future. To the contrary, Petitioner's latest reports of physical violence, threats, and exposure to extreme temperatures suggest that such abuse may already be recurring.

B. The U.S. Government Will Experience No Irreparable Harm From Being Enjoined From Engaging in Torture or Other Forms of Cruel, Inhuman, or Demeaning Treatment of Petitioner, or From Being Enjoined From Subjecting Petitioner to Further Interrogation

There can be no legitimate governmental interest in engaging in torture or other forms of abuse of Petitioner. Respondents cannot plausibly claim that national security, military operations or the safety of military personnel would be adversely affected if an injunction requires the Government to cease using torture or the threat of torture against a person who was detained at the age of fifteen, and in the intervening thirty months has had almost no human interaction other than his encounters with interrogators and military police.

While Respondents will undoubtedly complain that a restriction on their further interrogation of Petitioner will threaten national security, that claim must be evaluated in light of three salient facts: (1) the Supreme Court has held that interrogation is an impermissible basis for detaining individuals as "enemy combatants"; (2) even if an injunction issues, Petitioner remains in detention and virtually *incommunicado*; and (3) Respondents have already interrogated Petitioner dozens, if not hundreds of times over the past two and a half years.

First, in *Hamdi v. Bush*, the Supreme Court stated squarely that interrogation is an impermissible basis for detaining "enemy combatants." 124 S. Ct. 2633, 2641 (2004) **("**Certainly, we agree that indefinite detention for the purpose of interrogation is not authorized."). The *sole* purpose for which the detention of enemy combatants was approved was

protective custody—that is, to prevent individuals from resuming hostilities against the United States. *Id.* at 2640 ("The purpose of detention is to prevent captured individuals from returning to the field of battle and taking up arms once again.") (citations omitted). Thus, Respondents cannot properly claim that they have an unfettered right to interrogate the teenaged Petitioner, particularly when they have denied Petitioner of the protections against abuse contained in the Geneva Conventions.[8] Where, as here, "interrogation techniques" have been commingled with torture and abuse, interrogation can and should be enjoined, without affecting Respondents' continued detention of Petitioner.

Second, by virtue of Petitioner's ongoing detention and isolation, any threat Respondents believe he might pose is effective neutralized by way of his ongoing protective custody. This remains unchanged by an injunction against interrogation.

Finally, any claim of harm owing to an inability to interrogate Petitioner must be measured against the countless interrogations of Petitioner that Respondents have already conducted for nearly three years, starting when he was 15 years old. At the very least, the incremental value of additional interrogation is thrown into question, if not negated entirely.

[8] While the laws of war permit interrogation of prisoners of war, they also prohibit mistreatment in the course of interrogation. Thus, the Third Geneva Convention provides:

> No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.

Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949, Pt. III, Article 17, 1949 U.S.T. LEXIS 483 (1949), entered into force for the United States on February 2, 1956. Thus, while interrogation, with due protections, is routine under the laws of war, interrogation in the absence of any safeguards whatsoever—as Respondents maintain with respect to Petitioner—is extraordinary and potentially illegal.

C. Issuance of an Injunction Will Advance the Public Interest of Stopping U.S. Government Practices of Torture and Abuse

While the government routinely states that it does not engage in torture or other forms of abuse of detainees, from Bagram to Abu Ghraib to Guantánamo, the public record suggests otherwise. Thus there exists a strong public interest in effectuating the stated policy of the government not to engage in torture or abuse. That public interest is declared unambiguously in U.S. statute criminalizing torture, the Convention Against Torture, the Geneva Conventions, and most recently, a statement of the "sense of the Congress," and therefore weighs heavily in Petitioner's favor on the current motion.

Because statutes are understood to express the public interest, the existence of a statute prohibiting the acts a party seeks to enjoin weighs heavily in favor of the granting of an injunction. *See* 11A A. Wright, A. Miller, & M. Kane § 2948.4 (2004) ("A federal statute prohibiting the threatened acts that are the subject matter of the litigation has been considered a strong factor in favor of granting a preliminary injunction"); *Vanadium Corp. of America v. Susquehanna Corp.*, 203 F. Supp. 686, 696 (D. Del. 1962) (noting the "ever-present public interest to be on guard against violations of the anti-trust statutes"). In some instances, it may not even be necessary to prove irreparable harm if the threatened act would violate a statute, because that violation is a *per se* harm. *See, e.g., U.S. v. Barr Labs,* 812 F. Supp. 458, 486 (D.N.J. 1993) (holding that preliminary injunctions based on violation of Section 331 of Food, Drug, and Cosmetic Act "do not require a showing of immediate and irreparable injury") (internal citation omitted); *accord U.S. v. Lane Labs-USA, Inc.*, 324 F.Supp.2d 547, 571 (D.N.J. 2004); *Hunt v. U.S. Securities & Exchange Comm'n,* 520 F. Supp. 580, 609 (D. Tex. 1981) ("The public interest is often declared in the form of a statute and it has been held that when the

acts which are sought to be enjoined have been declared unlawful or are clearly against the public interest, a Plaintiff need not show irreparable injury or a balance of hardships in his favor").

In this instance, the public interest in prohibiting torture by the U.S government is embodied in four different pronouncements. First, a federal statute criminalizes torture. *See* 18 U.S.C. § 2340A (2000). Second, the Convention Against Torture,[9] which entered into force for the United States on November 20, 1994, prohibits torture as a matter of international law. As President Ronald Reagan stated upon transmittal of the treaty to the Senate in 1988, "Ratification of the Convention by the United States will clearly express United States opposition to torture, an abhorrent practice unfortunately still prevalent in the world today." *Letter of Transmittal from President Ronald Reagan to the Senate* (May 20, 1988), *in Message from the President of the United States Transmitting the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment,* 1988 U.S.T. LEXIS 202 (April 18, 1988).

Third, the Geneva Conventions, to which the U.S. is also a party, provide special protection to children. Protocol I to the Geneva Conventions, for example, states as follows in Article 77: "Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason."[10] *See* Denise Plattner, *Protection of Children in International Humanitarian Law* (International Committee of the Red Cross, 30 June 1984) available at http://www.icrc.org/web/eng/siteeng0.nsf/html/57JMAT (noting that "children taking part in hostilities are also protected"). This Court need not find that either the

[9] Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1988 U.S.T. LEXIS 202 (April 18, 1988).

[10] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, *available at* http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/f6c8b9fee14a77fdc125641e0052b079.

Torture Convention or the Protocol to the Geneva Conventions create binding legal obligations in U.S. federal courts, or that they provide the Petitioner with an enforceable legal remedy, in order to turn to them as a powerful expression of the opinion of the international community. That opinion, to which the U.S. has subscribed by its recognition of the obligations of the Torture Convention and the Geneva Conventions, should influence the determination of the precise question before this Court: that is, whether stopping torture or abuse of a person who was a child at the time the abuse began is in the public interest. *See, e.g.*, *Roper v. Simmons*, 125 S. Ct. 1183, 1198-1200 (2005) (referring to "international authorities" in interpreting the Eighth Amendment prohibition on "cruel and unusual punishments" as a bar to the death penalty for children under the age of 18 at the time of their alleged offenses).

Finally, on October 29, 2004, the President signed into law the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811, 2069 (2004). Section 1091 of this law pertains to persons, such as Petitioner, who are "detained by the United States," and states the sense of the Congress, providing in pertinent part:

> (b) POLICY.–It is the policy of the United States to–
>
> (1) ensure that no detainee shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States;
>
> (2) investigate and prosecute, as appropriate, all alleged instances of unlawful treatment of detainees in a manner consistent with the international obligations, laws, or policies of the United States;
>
> (3) ensure that all personnel of the United States Government understand their obligations in both wartime and peacetime to comply with the legal prohibitions against torture, cruel, inhuman, or degrading treatment of detainees in the custody of the United States….

118 Stat. 2069. Thus, it is the expressly stated policy of the government not merely to refrain from engaging in torture, but to *ensure* that detainees, such as Petitioner, are not

subject to torture, or cruel, inhuman or degrading treatment. The injunctive relief requested here would do exactly that.

Issuance of a preliminary injunction will serve the public interest by clarifying that torture is in fact contrary to United States law and policy. Sadly, such clarification is necessary because of the written policies of the government, including a memorandum from the Department of Justice stating that acts causing pain do not constitute torture unless that pain is "equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death." *See Standards of Conduct for Interrogation under 18 U.S.C. §§2340-2340A,* U.S. Department of Justice, Office of Legal Counsel (Aug 1. 2002). While the Department of Justice has since been forced to repudiate this astonishing interpretation of law, *see Memorandum for James B. Comey, Deputy Attorney General,* U.S. Department of Justice, Office of Legal Counsel (Dec. 30, 2004), the earlier memo has sewn seeds of confusion as to what constitutes torture.[11] An injunction against torture of the Petitioner will protect him from irreparable harm while also effectuating statutory and treaty commitments to prevent torture.

[11] The most recent statements from the Central Intelligence Agency disavowing torture demonstrate the disastrous effects of the Justice Department's 2002 memo. Testifying before the Senate Armed Forces Committee on March 17, 2005, CIA Director Porter Goss was unable to provide assurances that the CIA has not engaged in torture since the September 11 attacks. As reported by the *New York Times:*

> Mr. Goss acknowledged that there had been "some uncertainty" in the past among C.I.A. officers about what interrogation techniques were specifically permitted and prohibited. A legal memorandum relaxing the limits on interrogation was issued in 2002 but repudiated by the administration in 2004.

Douglas Jehl, *Questions Left By C.I.A. Chief On Torture Use,* New York Times, March 18, 2005, at A5.

D. Coupled With *Rasul v. Bush*, This Court's Decision on Respondents' Motion to Dismiss Establishes Petitioner's "Fair Ground for Litigation" of His Due Process Claims Because He Has Already Prevailed on the Merits

By virtue of Judge Green's decision on Respondents' motion to dismiss, Petitioner has already prevailed on a major portion of his claim: that he has enforceable rights under the Fifth Amendment of the U.S. Constitution. Coupled with the Supreme Court's decision in *Rasul v. Bush*, Judge Green's judgment, which is *res judicata*, establishes conclusively Petitioner's likelihood of success on the merits.

The final factor in the preliminary injunction analysis—that petitioner have a "substantial likelihood of success on the merits"—is not a preponderance standard, nor should this factor be considered in isolation of the other three. Rather, because the four factors are to be considered in combination with one another, the degree of likelihood of success necessary is reduced where the other three factors are sufficiently strong. *See Fund for Animals v. Norton*, 281 F. Supp. 2d 209, 219 (D.D.C. 2003) ("A court may accept a modified showing of the substantial likelihood of success on the merits, and grant injunctive relief upon a lesser showing of a 'substantial case on the merits,' where "the other three factors strongly favor interim relief") (internal citations omitted). Thus, while Petitioner must demonstrate "a fair ground for litigation," where, as here, the other factors weigh strongly in his favor, he need not demonstrate more. *See Katz v. Georgetown University*, 246 F.3d 685, 688 (D.C. Cir. 2001) (affirming denial of motion for preliminary injunction where plaintiff's legal claim was "hopelessly deficient") (internal citation omitted); *accord Wemhoff v. Bush*, 167 F. Supp. 2d 32, 33-34 (D.D.C. 2001) (denying motion for preliminary injunction after finding plaintiff had "no chance" of success on the merits because the first claim lacked "even a scant likelihood of success" and plaintiffs provided "no authority at all" for the second).

Petitioner has clearly alleged that his detention and abuse is in violation of his Fifth Amendment due process rights. *See* First Amended Petition ¶¶ 34-37, 60-63. Moreover, it can hardly be disputed that torture constitutes the kind of deprivation of a fundamental liberty protected by the Due Process Clause. *See Rochin v. California*, 342 U.S. 165, 172-173 (1952) (holding that government conduct that "shocks the conscience" violates the Fifth Amendment Due Process Clause); *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998) (holding that deprivations of liberty caused by "the most egregious official conduct" may violate the Due Process Clause); *Chavez v. Martinez*, 538 U.S. 760, 733 (2003) (stating that inquiry into and relief for police torture and abuse resulting in a confession not used at trial is governed by the Fourteenth Amendment Due Process Clause); *Harbury v. Deutch*, 233 F.3d 596, 602 (D.C. Cir. 2000)[12] ("No one doubts that under Supreme Court precedent, interrogation by torture like that alleged by [Appellant] shocks the conscience"), *reversed on other grounds sub nom Christopher v. Harbury*, 536 U.S. 403 (2002). Thus, so long as Petitioner has enforceable due process rights, his corroborated allegations of abuse are sufficient to establish his likelihood of success on the merits.

The question of whether Petitioner has due process rights was answered in the affirmative by this Court in Judge Green's decision of January 31, 2005. *See In re Guantanamo Detainee Cases*, 2005 WL 195356 (D.D.C. Jan. 31, 2005) (dkt. Nos. 101, 102) ("Jan. 31 Dec."). That decision, granting in part and denying in part Respondents' motion to dismiss, is conclusive

[12] In *Harbury v. Deutch*, decided in 2000, the D.C. Circuit Court of Appeals held that the Fifth Amendment does not prohibit the torture of a non-resident foreign national living abroad. 233 F.3d at 604. But that conclusion was based on the court's reading of *United States v. Verdugo-Urquidez*, 494 U.S. 259 (1990), and that decision's reliance on *Johnson v. Eisentrager*, 339 U.S. 763 (1950), regarding the extraterritorial effect of the Fifth Amendment. *Eisentrager* was discussed at length and ultimately distinguished by the Court in *Rasul v. Bush* as inapplicable to the Guantánamo detainees. 124 S. Ct. 2686 (2004). Thus, the holding in *Harbury*, while not necessarily repudiated by *Rasul*, is inapposite with regard to Petitioner. Rather, Judge Green's decision of January 31, 2005, finding that Petitioner has enforceable due process rights, is the applicable law of this case. *See In re Guantanamo Detainees*, 2005 WL 195356 at *18.

evidence of Petitioner's likelihood of success. In her decision, Judge Green rejected the government's position that a person it detains as an "enemy combatant" in Guantánamo has no rights under U.S. and international law. Specifically, the court held that Petitioner has enforceable rights under the Fifth Amendment and has stated a valid claim for relief on this basis, and that he may have a valid claim under the Third Geneva Convention. *See* Jan. 31 Dec. at *18, *33. Judge Green's decision explicitly relies on *Rasul v. Bush,* 124 S. Ct. 2686 (2004), in reaching the conclusion that Petitioner is entitled to Fifth Amendment protections. *Id.* at *13. By virtue of Judge Green's well-reasoned opinion, concluding that Petitioner may claim due process protections, Petitioner far exceeds the requirement that he establish "a fair ground for litigation." *Katz v. Georgetown University,* 246 F.3d at 688. In light of the strength of the other three preliminary injunction factors in Petitioner's favor, this alone is sufficient to warrant injunctive relief.

Of course, the decision of this court in Petitioner's favor does far more than demonstrate that Petitioner has a *prima facie* case; it is a final judgment of the court, and it is *res judicata,* Respondents' appeal notwithstanding. *See Deering Milliken, Inc. v. F. T. C.,* 647 F.2d 1124, 1129-30 (D.C. Cir. 1978) (holding that vitality of a district court judgment "is undiminished by pendancy of an appeal" unless a stay of the judgment is granted); *accord Torpharm v. Shalala,* 1997 WL 33472411 (D.D.C. 1997) (Roberts, J.). Thus, for the purposes of determining Petitioner's likelihood of success on the merits, the pending appeal is irrelevant. So, too, is the contrary ruling reached by another judge of this court in *Khalid v. Bush,* 2005 WL 100924 (D.D.C. Jan. 19, 2005) (Leon, J.). Until the appeal is decided, the *only* decision that matters is the binding, final judgment of Judge Green.

Finally, another judge of this Court has already determined that Petitioners who, like O.K., were before Judge Green on Respondents' motion to dismiss have a substantial likelihood of success on the merits of their Fifth Amendment claims. Ruling on a petition for a temporary restraining order to prevent rendition of a group of detainees to another country, Judge Rosemary Collyer found that Petitioners in that case had "at least a fifty-fifty chance of prevailing on their constitutional claims before the Court of Appeals". *Abdah v. Bush,* C.A. No. 04-1254 (HHK) (RMC) (attached hereto as Exhibit C). Thus, even in light of the split opinions between Judges Green and Leon, Petitioner has a clear likelihood of success.

II. Enjoining Interrogation, Torture, and Other Cruel, Inhuman and Degrading Treatment is Appropriate in Light of the Extraordinary Circumstances of Abuse at Guantánamo and the Likelihood That Such Abuse is Ongoing or Will Recur

An injunction against torture and abuse is not without precedent, particularly where there is a record of repeated abuse and brutality against prisoners. Against such a backdrop of violence, and where the violence may be ongoing or may recur, injunctive relief is warranted to safeguard individuals from further mistreatment. Thus, The Second Circuit Court of Appeals found a district court to have erred in failing to grant an injunction against "further physical abuse, tortures, beatings, or similar conduct" after three days of cruel and inhuman abuse[13] of inmates at the Attica Correctional Facility. *Inmates of the Attica Correctional Facility v. Rockefeller,* 453 F.2d 12, 24 (2d Cir. 1971). The Second Circuit gave particular weight to the extensive abuse that prisoners had already experienced, and noted that even multiple remedial

[13] The abuse at Attica included guards beating prisoners with sticks, belts, and bats; forcing prisoners to strip and run naked through gauntlets of guards; dragging prisoners on the ground; spitting on prisoners; burning prisoners with matches; and poking prisoners in the genitals and arms. 453 F.2d at 18-19.

steps taken by state and federal officials might be insufficient to prevent a recurrence of violence, "perhaps of a more sophisticated and subtle nature." *Id.* at 23-24.

Of course, Guantánamo is not Attica. It is immeasurably worse. Indeed, apart from Abu Ghraib, it is difficult to imagine any detention center in the world under American control which has been home to more torture, abuse, and mistreatment of prisoners. The consistency of reports of torture and abuse, from the U.S. government itself as well as from independent third parties and the detainees makes it difficult to deny that such mistreatment has occurred. Moreover, there is sufficient evidence, in the form of Petitioner's most recent correspondence, that the abuse continues. If injunctive relief was appropriate in the aftermath of a prison riot, surely it is appropriate in the midst of unending use of violence and threats of violence against the teenaged Petitioner.

III. To The Extent Necessary, The Court Should Modify or Lift the Stay in Order To Grant the Injunction

Although the Court has stayed proceedings in this case pending resolution of the appeal, the Court may and should nonetheless grant the relief requested here. The Court has the authority to modify or lift the stay, and should do so to the extent necessary to grant a preliminary injunction.

A. The Court's Order Transferring Petitioner's Case Pursuant to L. Civ. R. 40.6(a) Permits The Stay Entered by Judge Green to Be Lifted

On September 21, 2004, this Court transferred Petitioner's case to Judge Green, pursuant to Local Rule 40.6(a), "for coordination and management as reflected in the September 14, 2004, Resolution of the Executive Committee." *O.K. v. Bush* (D.D.C. Sept. 21, 2004) (dkt. no. 27).

The Resolution of the Executive Committee provides that "[a] Judge who does not agree with any substantive decision reached [by another Judge of the court pursuant to Local Rule 40.6(a)] … may resolve the issue in his or her own case as he or she deems appropriate." Resolution of the Executive Committee of the United States District Court for the District of Columbia (D.D.C. Sept. 15, 2004), *available at* http://www.dcd.uscourts.gov/GuantanamoResolution.pdf. Thus, by virtue of its September 21 Order and the Resolution of the Executive Committee, the Court retains the authority to review *de novo* Judge Green's granting of a stay in this case, and to lift that stay in order to grant injunctive relief.

Judge Green's order staying proceedings pending appeal compromises Petitioner's substantive rights by putting him at grave risk of further torture and other cruel, inhuman, and degrading treatment, without *any* recourse whatsoever. Thus, the decision to grant a stay is inherently substantive, and therefore subject to redetermination by this Court. Such redetermination is appropriately *de novo*, as the Resolution of the Executive Committee requires no deference, nor is there any basis for a higher level of deference in either the Local Rules or the Federal Rules of Civil Procedure.

B. Changed Factual Circumstances Warrant the Lifting or Modifying of the Stay

As this Court has observed, "the same court that imposes a stay of litigation has the inherent power and discretion to lift the stay," especially where circumstances are such that maintenance of the stay is "inappropriate." *Marsh v. Johnson*, 263 F. Supp. 2d 49, 52 (D.D.C. 2003). Judge Green granted Respondents' motion for a stay without providing Petitioner the

opportunity to oppose.[14] As such, Judge Green did not have before her the information presented here regarding the torture and abuse of Petitioner. Moreover, the latest correspondence from Petitioner, suggesting that abuse of him continues, was not received by Petitioner's counsel until after Judge Green issued her ruling. Ahmad Decl. ¶¶ 9-10.

In light of the factual record of torture and abuse of Petitioner, maintenance of the stay is inappropriate insofar as it prevents this court from granting the most basic form of protection—of Petitioner's physical and mental integrity. It is within the inherent power and discretion of the court to lift the stay, and the factual circumstances of which the Court has now been apprised warrant the favorable exercise of that discretion. *See Marsh v. Johnson*, 263 F. Supp. 2d at 52; *Dano Res. Recovery v. District of Columbia*, 923 F. Supp. 249, 252 (D.D.C. 1996); *Purolite Int'l, Ltd. v. Rohm & Haas Co.*, 1992 WL 142018 (E.D. Pa. 1992).

CONCLUSION

Based on the foregoing analysis, Petitioner respectfully requests that the Court enjoin Respondents and their agents from subjecting Petitioner to further interrogation, torture or other cruel, inhuman, or degrading treatment.

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[14] Judge Green issued her order granting the government's motion for stay less than four hours after Respondents filed their motion. *See* Ahmad Decl., Exh. 3, Notices of Electronic Filing, February 3, 2005 (showing Respondents' motion for stay entered at 11:40 a.m. and Court's order granting the stay entered at 3:03 p.m. the same day).

Dated: March 21, 2005

Respectfully submitted,

/s/

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