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7 Attorneys for Petitioners,
8 COALITION OF CLERGY, LAWYERS,
9 AND PROFESSORS, HAIM DOV BELIAK,
10 ROBERT A BERGER, KATHRYN S.
11 BLOOMFIELD, ERWIN CHEMERINSKY,
12 RAMSEY CLARK, ALLEN FREEHLING,
13 STEVEN JACOBS, HAROLD S. LEWIS,
14 JR., HUGH R. MANES, ARTHUR L.
15 MARGOLIS, KENNETH B. NOBLE,
16 GEORGE REGAS, JOSEPH REICHMANN,
17 LAWRENCE W. SCHILLING, CAROL A.
18 WATSON, MARION R. YAGMAN, and
19 STEPHEN YAGMAN

20 UNITED STATES DISTRICT COURT
21 CENTRAL DISTRICT OF CALIFORNIA

22 COALITION OF CLERGY, LAWYERS,) No. Civ.-
23 AND PROFESSORS, HAIM DOV
24 BELIAK, ROBERT A. BERGER,
25 KATHRYN S. BLOOMFIELD, ERWIN
26 CHEMERINSKY, RAMSEY CLARK,
27 ALLEN FREEHLING, STEVEN
28 JACOBS, HAROLD S. LEWIS, JR.,
HUGH R. MANES, ARTHUR L.
MARGOLIS, KENNETH B. NOBLE,
GEORGE REGAS, JOSEPH
REICHMANN, LAWRENCE W.
SCHILLING, CAROL A. WATSON,
MARION R. YAGMAN, and STEPHEN
YAGMAN, on behalf of PERSONS
HELD INVOLUNTARILY AT
GUANTANAMO NAVAL AIR BASE,
CUBA.

FIRST AMENDED VERIFIED PETITION
FOR WRIT OF HABEAS CORPUS

Petitioners,

vs.

GEORGE WALKER BUSH, DONALD H.
RUMSFELD, RICHARD B. MYERS,
GORDON R. ENGLAND, JAMES L.
JONES, ROBERT A. BUEHN,
MICHAEL FAIR, ELLEN MUSTAIN,
MICHAEL LEHNERT, and 1,000

1 UNKNOWN NAMED UNITED STATES)
2 MILITARY PERSONNEL,)

3 Respondents.)

4 TO: A UNITED STATES DISTRICT COURT JUDGE:

5 On information and belief, petitioners allege that:

6 1. Beginning on or about January 11, 2002, and continuing to
7 date, respondents under force of arms and involuntary brought to
8 U.S. Naval Station, Guantanamo Bay, Cuba (hereinafter "GITMO"),
9 under the exclusive and complete jurisdiction of respondents in
10 the nation of Cuba, approximately 110 persons (hereinafter "the
11 persons") whom respondents captured in the nation of Afghanistan.
12 It has been indicated that perhaps a total of 2,000 such persons
13 will be involuntarily transferred from Afghanistan to GITMO and
14 there held against their will.

15 2. The press clips attached hereto, and whose contents are
16 incorporated herein by this reference, contain some of the
17 materials and information on which petitioners base their
18 beliefs.

19 3. The approximately 110 persons are held under force of
20 arms and against their will and in violation of the United States
21 Constitution and the Geneva Convention.

22 4. Respondents have characterized the held persons as
23 "unlawful combatants," and have denied them status as prisoners
24 of war, have denied them rights under the United States
25 Constitution, and have denied them access to the United States
26 Courts. See Memorandum, *infra*.

27 5. The persons are unlawfully detained, and neither have
28 been identified nor permitted access to legal counsel.

1 6. Petitioners are: The Coalition of Clergy, Lawyers, and
2 Professors, whose members are: Rabbi Haim Dov Beliak of Los
3 Angeles, who is the rabbi of Congregation Adat Chaberim; Robert
4 A. Berger of Los Angeles, California, formerly editor of the Op-
5 Ed pages of the Los Angeles Times, and professor of journalism in
6 the Annenberg School of Journalism at the University of Southern
7 California in Los Angeles; Kathryn S. Bloomfield of Los Angeles,
8 California, a civil rights lawyer; Irwin Chemerinsky of Los
9 Angeles, California, a professor of law in the University of
10 Southern California Law School in Los Angeles, California; Ramsey
11 Clark of New York, New York, a civil rights lawyer who was
12 Attorney General of the United States of American from 1966-69;
13 Rabbi Allen Fraehling of Brentwood, who is the rabbi of
14 University Synagogue; Rabbi Steven Jacobs of Los Angeles, who is
15 the rabbi of Temple Kol Tikvah in Wood Hills; Harold S. Lewis,
16 Jr. Macon, Georgia, who is a professor of law at Mercer University
17 Law School in Macon, Georgia, and who is the immediate past chair
18 of the civil rights section of the Association of American Law
19 Schools; Hugh Manes of Los Angeles, California, who is a civil
20 rights lawyer; Arthur L. Margolis of Los Angeles, professional
21 responsibility attorney and former prosecutor for the State Bar
22 of California; Kenneth B. Noble of Los Angeles, California, a
23 lawyer, a professor of journalism in the Annenberg School of
24 Journalism at the University of Southern California in Los
25 Angeles, and a former reporter for the New York Times, and chief
26 of its Los Angeles bureau; the Reverend George Regas of Los
27 Angeles, who is the Chairperson of the Los Angeles Area
28 Interfaith Communities United for Justice & Peace, and who is the

1 retired pastor of All Saints Episcopal Church, Pasadena; Joseph
2 Raichmann of Los Angeles, California, who is a civil rights
3 lawyer, and who is a retired United States magistrate judge;
4 Lawrence W. Schilling of New York, New York, who is a civil
5 rights lawyer, and who formerly was chief of the civil division
6 of the office of the United States Attorney for the Southern
7 District of New York; Carol Watson of Los Angeles, California,
8 who is a civil rights lawyer; Marion R. Yagman of Los Angeles,
9 California, who is a civil rights lawyer; and Stephen Yagman of
10 Venice Beach, California, who is a civil rights lawyer.

11 7. Respondents are the persons who have illegal custody of
12 the persons on whose behalf habeas corpus is sought, and are,
13 respectively: George Walker Bush, President of the United States
14 of America; Donald H. Rumsfeld, Secretary of Defense of the
15 United States of America; General Richard B. Myers, Chairman of
16 the Joint Chiefs of Staff; Gordon R. England, Secretary of Navy;
17 General James R. Jones, Commandant of the Marine Corps; Captain
18 Robert A. Buehn, Commander Naval Base and Commanding Officer of
19 Naval Station; Michael Fair, Chief of Staff Naval Base and
20 Executive Officer Naval Station; Ellen Mustain, Command Master
21 Chief CMD/MC; and Brigadier General Michael Lehnert, head of
22 security for GITMO prison.

23 I declare the foregoing to be true and correct based upon
24 the information I have, and pursuant to 28 U.S.C. 1746 declare
25 the same to be true under penalty of perjury on January 20, 2002
26 at Los Angeles, California.

27 _____
28 STEPHEN YAGMAN

MEMORANDUM OF LAW

1
2 Issuance of a writ of habeas corpus is sought on behalf of
3 persons taken prisoner by the respondents, acting on behalf of
4 the United States of America, in Afghanistan who were under force
5 of arms involuntarily transferred to Guantanamo, Cuba, and who
6 are at Guantanamo held by force of arms, against their will.

7 What is sought by this petition is identification of the
8 persons involuntarily detained, that each of them be brought
9 physically before the court for a determination of their
10 statuses, and for any appropriate further action.

11 The United States Constitution provides that:

12 [t]he privilege of the writ of habeas corpus shall
13 not be suspended, unless when in cases of
14 rebellion or invasion the public safety may require
15 it.

16 *Id.* at Article I, Section 9, paragraph 2.

17 To implement the right to habeas corpus, Congress enacted 28
18 U.S.C. §§ 2241-43.

19 Section 2241(a) provides that "[w]rits of habeas corpus may
20 be granted by . . . the district courts and any circuit judge
21"

22 Section 2241(c) provides that "[t]he writ of habeas corpus
23 shall not extend to a prison ^{or} unless—(1) [h]e is in custody under
24 or by color of the authority of the United States . . . (3) [h]e
25 is in custody in violation of the Constitution or laws or
26 treaties of the United States; or (4) [h]e, being a citizen of a
27 foreign state, and domiciled therein is in custody for an act
28 done or omitted under any alleged right, title, authority,

1 privilege, protection, or exemption claimed under the commission,
2 order or sanction of any foreign state, or under color thereof,
3 the validity of and effect of which depend upon the law of
4 nations"

5 Section 2242 provides that "[a]pplication for a writ of
6 habeas corpus shall be in writing signed and verified by . . .
7 someone acting on [the] behalf" of "the person for whose relief
8 it is intended . . . ," and that "[the] petition shall allege
9 facts concerning the applicant's commitment or detention, the
10 name of the person who has custody over him and by virtue of what
11 claim or authority, if known."

12 Section 2242 further provides that if a petition is
13 addressed to "a circuit judge it shall state the reasons for not
14 making application to the district court of the district in which
15 the applicant is held."

16 Section 2243 provides that the judge "shall forthwith award
17 the writ or issue an order directing the respondent to show cause
18 why the writ should not be granted," that "[t]he writ, or order
19 to show cause shall be directed to the person having custody of
20 the person detained[,] that "[t]he person to whom the writ or
21 order is directed shall make a return certifying the true cause
22 of the detention[,] that "[w]hen the writ or order is returned a
23 day shall be set for hearing[,] and that "[u]nless the
24 application for the writ and the return present only issues of
25 law the person to whom the writ is directed shall be required to
26 produce at the hearing the body of the person detained."

27 1. The persons for whom relief is sought are "in custody
28 under or by color of the authority of the United States"

1 28 U.S.C. § 2241(c)(1).

2 2. The persons for whom relief is sought are "in custody in
3 violation of the Constitution or laws or treaties of the United
4 States." 28 U.S.C. § 2241(c)(3). Specifically, the persons are
5 held in violation of the Fifth and Sixth Amendments of the
6 Constitution in that they are, respectively, deprived both of due
7 process of law in that they are deprived of liberty without due
8 process of law, and in that they have not been informed of the
9 nature and cause of the accusations against them and have not
10 been afforded the assistance of counsel. Specifically, the
11 persons held are citizens of foreign states who were domiciled
12 therein and are in custody, apparently, for acts done under
13 alleged right, authority, privilege, and commission, or order or
14 sanction of a foreign state, or under color thereof, the validity
15 and effect of which depend upon the law of nations, to wit, the
16 Geneva Convention, and at minimum its prohibition of transferring
17 persons taken prisoner in war from the country of their capture.

18 Hence the persons for whom relief is sought appear to be
19 entitled to relief.

20 3. Because the persons for whom relief is sought appear to
21 be held incommunicado and have been denied access to legal
22 counsel, application properly is made by petitioners acting on
23 their behalf, 28 U.S.C. § 2242, and sufficient facts are alleged
24 concerning their detention and the names of the persons who
25 detain them, though the authority for their detention is unknown.
26 *Ibid.*

27 4. Because it is not known to which judge this petition will
28 be presented, whether it be a circuit judge or a district court

1 judge, as the petition has been completed on Saturday afternoon,
2 January 19, 2002, a day on which petitioners have no direct
3 access to the courts (and a day in the middle of the Martin
4 Luther King, Jr. three-day, holiday weekend) no reason presently
5 can be given for it not being presented to a district judge, but
6 it is not made to a district court judge "of the district in
7 which the applicant is held," *ibid.*, because there is no such
8 district, as applicants are held under American jurisdiction and
9 on American soil, but in a foreign country. Petitioners will
10 endeavor to deliver the petition to both a district court Judge,
11 Robert M. Takasugi, and a circuit Judge, Stephen Reinhardt, as
12 those are the only two judges whose home addresses petitioners
13 believe they know.¹

14 Wherefore, it is respectfully requested that:

- 15 1. A writ or order to show cause issue directed to each and
16 all respondents directing each of them to identify by
17 full name and country of domicile, and all other
18 identifying information in their possession, each person
19 held by them, within three days. 28 U.S.C. § 2243.
 - 20 2. A writ or order to show cause be directed to each and
21 all respondents directing them to show the true cause(s)
22 of the detention of each person.
 - 23 3. That a date for hearing be set.
- 24
25
26

27 ¹ One of petitioners' counsel knows the home address of one other district
28 court judge, but that judge regularly recuses himself or herself from
petitioners' counsel's cases and resides in a gated community to which there
probably would not be any physical access to accommodate delivery.

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- 4. That, since it clearly is not the case that "only issues of law" are presented, respondents be directed to produce at the hearing the body of each person detained.
- 5. That, when a hearing be held, it be held "not more than five days after the return." *Ibid.*
- 6. That respondents and any person in concert with them, or under their direction, command, control, or orders, be ordered not to remove from GITMO to any location other than GITMO any person unlawfully held there at the time of service. *See para. 7, infra.*
- 7. That service of the writ or order to show cause be made by certified mail to the last known address of each respondent, to the Attorney General of the United States, and by personal service upon the United States Attorney for the Central District of California.

Respectfully submitted,
 YAGMAN & YAGMAN & REICHMANN

By _____
 STEPHEN YAGMAN

By _____
 JOSEPH REICHMANN

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