

September 10, 2019

The Honorable Mark T. Esper  
United States Secretary of Defense  
1010 Defense Pentagon  
Washington, DC 20301-1010

Dear Secretary Esper:

We are a coalition of human rights, civil liberties, and faith-based organizations writing to express our grave concern over the recent suicide attempt by Sharqawi Al Hajj, who was taken into custody in 2002, tortured by the CIA and U.S. partner forces until 2004, then transferred to Guantanamo Bay, where he has spent the last 15 years.<sup>i</sup> Mr. Al Hajj urgently needs an examination by an independent, civilian medical expert that he trusts. The consequences of failing to facilitate that examination immediately—or of disregarding an independent expert’s treatment recommendations if such an examination does occur—could be catastrophic.

Guantanamo’s Senior Medical Officer does not dispute that on August 19, 2019, Mr. Al Hajj cut his wrists with a piece of broken glass during a telephone call with counsel, nor does he dispute that Mr. Al Hajj has threatened additional self-harm.<sup>ii</sup> Two independent physicians with whom Mr. Al Hajj’s counsel has consulted believe that he remains “actively” suicidal.<sup>iii</sup>

Guantanamo medical staff cannot provide Mr. Al Hajj with the care that he desperately needs, and that the United States is obligated to provide,<sup>iv</sup> for two reasons. First, Mr. Al Hajj does not trust military medical personnel, which is both reasonable and unsurprising given his torture at the hands of U.S. forces coupled with his prolonged indefinite detention at Guantanamo. As medical experts—including Mr. Al Hajj’s—have explained repeatedly, proper mental health care in particular is impossible absent a trusting doctor-patient relationship. Second, Guantanamo medical personnel do not have final say over medical decisions or decisions with medical repercussions; the Joint Task Force (JTF) Commander does. For example, Mr. Al Hajj alleges being moved to “isolating conditions” following suicidal ideation, and being refused a warm blanket and warm clothes when placed in a cell he found “freezing cold” due to his frail physical condition, both against the recommendations of his doctors.<sup>v</sup>

It should be noted that detainee distrust of Guantanamo medical staff and the subordination of detainees’ medical needs to purported security functions are not unique to Mr. Al Hajj’s case. Independent, civilian medical experts with significant experience at Guantanamo have documented both deficiencies in care across the detainee population.<sup>vi</sup>

There is every reason to believe that Mr. Al Hajj is at imminent risk and overwhelming evidence that JTF-Guantanamo is either unwilling or unable to address the crisis consistent with accepted standards of care. Mr. Al Hajj’s counsel has asked a federal court to order an independent medical examination for him, but she should not have to. Mr. Al Hajj’s life and health are the Defense Department’s responsibility. We urge you to take that responsibility seriously by facilitating an immediate independent medical evaluation for Mr. Al Hajj.

Sincerely,

American Civil Liberties Union  
Amnesty International USA  
Center for Victims of Torture  
Council on American-Islamic Relations  
Defending Rights and Dissent  
Friends Committee on National Legislation  
Human Rights First  
Human Rights Watch  
Justice for Muslims Collective  
Physicians for Human Rights  
September 11th Families for Peaceful Tomorrows  
Win Without War

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<sup>i</sup> Al Hajj v. Trump, Case No. 09-cv-745 (RCL) at 1-2, (D.D.C. May 23, 2011) (Memorandum Opinion); Human Rights Watch, Double Jeopardy, CIA Renditions to Jordan, April 7, 2008, available at <https://www.hrw.org/report/2008/04/07/double-jeopardy/cia-renditions-jordan>.

<sup>ii</sup> Respondent's Status Report, Ex. 1, Decl. of Lieutenant Commander [REDACTED], MD, FAAFP, Al Hajj v. Trump, 09-cv-745 (RCL) (Sept. 4, 2019).

<sup>iii</sup> Emergency Motion for Status Conference to Report Petitioner's Recent Suicide Attempt and Obtain Decision on Pending Emergency Motion for Independent Medical Relief, Al Hajj v. Trump, 09-cv-745 (RCL) (Aug. 22, 2019).

<sup>iv</sup> See, e.g., U.S. Army Regulation 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees at 3-4(e), 6-6-(c), available at <https://info.publicintelligence.net/USArmy-Detainees.pdf>; Deprivation and Despair: The Crisis of Medical Care at Guantanamo at 10-14, available at <https://www.cvt.org/DeprivationandDespair>; *id.* at 18 (“[M]edical ethical guidelines are explicit that when a patient expresses mistrust in their caregiver—either directly or through their behavior—it becomes that doctor’s professional (indeed moral) responsibility to transfer that patient to another competent, trusted doctor who can properly treat the patient.”).

<sup>v</sup> Emergency Motion for Status Conference to Report Petitioner's Recent Suicide Attempt and Obtain Decision on Pending Emergency Motion for Independent Medical Relief, Ex. A, Decl. of Pardiss Kebriaei in Support of Petitioner Sharqawi Al Hajj, Al Hajj v. Trump, 09-cv-745 (RCL) (Aug. 22, 2019).

<sup>vi</sup> Deprivation and Despair: The Crisis of Medical Care at Guantanamo at 14-20, available at <https://www.cvt.org/DeprivationandDespair>.