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U.S. DISTRICT COURT
DISTRICT OF MARYLAND

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**IN THE US DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Dr. Orly Taitz, ESQ) Civil Action 13-cv-1878
Plaintiff) Hon. Ellen Lipton Hollander
v) Presiding
Carolyn Colvin,)
in her official capacity as Acting Director)
of Social Security Administration)

EMERGENCY MOTION

**NOTICE OF TREASON COMMITTED BY THE HOLDER OF THE
STOLEN CONNECTICUT SOCIAL SECURITY NUMBER xxx-xx-4425 OF
HARRY BOUNEL, RISK TO NATIONAL SECURITY.**

**MOTION TO EXPEDITE MOTION FOR RECONSIDERATION,
EXPEDITE RELEASE OF THE SS-5 TO SSN XXX-XX-4425 OF HARRY
BOUNEL FRAUDULENTLY ASSUMED BY BARRY SOETORO, AKA
BARRY SOEBARKAH, AKA BARACK OBAMA.**

**MOTION TO EXPEDIENTLY FORWARD TO THE FEDERAL GRAND
JURY UNDER 18 USC 3332 OR ORDER BY THE COURT TO THE US**

**ATTORNEY TO FORWARD TO THE FEDERAL GRAND JURY
EVIDENCE OF OBAMA'S USE OF A STOLEN CT SSN XX-XX-4425 AND
BOGUS IDS, AS WELL AS RECENT ACT OF TREASON BY OBAMA,
AKA SOETORO, AKA SOEBARKAH.**

STATEMENT OF FACTS

In this case plaintiff provided the court with evidence that the SSA has SS-5, Social Security application of Harry (Harrison) Bounel, which SSA wrongfully did not release claiming privacy, even though Bounel was born in 1890 and his documents are considered to be documents of extremely aged individual and do not fall under privacy exemption per 120 year rule. Plaintiff also provided this court with sworn affidavit of professional debt collector and researcher, which showed that Bounel had SSN xxx-xx-4425, which was later used by Barack Obama. Taitz also provided this court with some 150 pages of sworn affidavits of top law enforcement officials and government records showing that Obama was a citizen of Indonesia, born in Kenya who used not only a stolen SSN of Harry Bounel, but also all fabricated ID. (SAC and exhibits).

On May 31, 2014 Barack Obama released five top Taliban terrorists, among them Khairulla Khairkhwa in exchange for a deserter Bowe Bergdahl. Soebarkah-Soetoro-Obama has engaged in this release without prior 30 day notification of the US Congress which Obama was required to effectuate under the NDAA of 2014 and without a notification to the US District Court and the Court of appeals, which

denied Habeas Corpus for Khairulla and ruled only a year and a half earlier, on 12.14.2012 that Khairulla is too dangerous to the US to be released and has to stay in the US custody. Obama further obfuscated this release by making the notification to the US District court retroactively, on June 4 2014, four days after the release, misrepresenting the release as transfer and misspelling the name of this top terrorist, so that parties watching the case will not know who was released. While initially Obama tried to blame Secretary of Defense Chuck Hagel in making the decision to release Khairulla, and throw Hagel under the bus, on June 11, 2014, Hagel testified before the US Congress and confirmed that the ultimate decision to release the terrorist five "Dream Team" was indeed made by the Commander in Chief Barack Obama. Actions of Obama in releasing and sending to roam free in Qatar of Khairkulla Khairkhawa and the other four top Taliban lieutenants, guilty of deaths of thousands of people, can only be compared to a hypothetical transfer by President Truman of Himmler, Goebbels, Heydrich, Goering and Eichman to sun bathe at the beaches of Rio at the time of Nuremberg trials. By such actions Obama committed a high crime of treason, giving aid and comfort to the enemy under the 18US§ 2381. Actions by Obama invigorated jihadi-Taliban-Al Qaeda movement. Retired United States Army Lieutenant Colonel and author Ralph Peters appeared on FOX news on 06.11.2014 and stated in relation to the recent

Al-Qaeda victories in Iraq are the greatest Islamist conquests since the 12th Century.

"Patty Ann, this is President Obama's real legacy. The creation of the first jihadi state in modern history stretching from central Syria to Central Iraq and now approaching Baghdad ...And now, just to put this in perspective for viewers, with this jihadi conquest of Mosul and jihadi forces approaching Baghdad, this is shaping up to be the biggest Arab jihadi victory since the 12th Century, 1187, and the fall of Crusader Jerusalem. This is momentous." All of the above represent a exigent circumstance justifying a motion to expedite at hand.

Emergency motion at hand seeks an emergency ruling in release of the original SS-5 to SSN xxx-xx-4425, which was assigned to Harry Bounel and later fraudulently assumed by Obama, as well as forwarding by this court under 18USC 3332 to the federal Grand Jury for the District of Maryland or an order by this court to the US Attorney for the District of Maryland, representing defendants in this case, to forward to the Federal Grand Jury under 18 US 3332 all the evidence presented in this case.

ARGUMENT

18 U.S. Code § 2381 - Treason

"Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than \$10,000; and shall be incapable of holding any office under the United States."

As the President Elect Barack Obama took an oath of office to protect and defend the US Constitution and therefore owes allegiance to the United States.

As shown in the case at hand Obama aka Barry Soetoro, aka Barry Soebarkah, has violated the US constitution and usurped the position of the US President using fabricated Selective Service Registration, fabricated birth certificate and stolen Connecticut Social Security number xxx-xx-4425. After Obama published this number with his tax returns, it was checked and failed both E-Verify and SSNVS and was found to be assigned to Harry Bounel, born in 1890. It is believed that though the original application, SS-5 of Harry Bounel is still contained in the SSA records, the Numident, electronic record was falsified. (SAC and exhibits)

In his school records from Assisi school in Jakarta Indonesia, Obama is listed as a citizen of Indonesia, last name is the last name of his step father, Lolo Soetoro and religion Islam. (SAC and exhibits). Obama was only one of a couple students who were listed as Muslim in that school.

In 2008 a number of GITMO prisoners, among them Khairulla Khairkhwa (Hereinafter Khairulla), filed a legal action 08-cv-01805 in the US District Court for the District of Columbia seeking Habeas Corpus. US district court Judge Ricardo Urbina denied it in 2011 finding that Khairulla represents too great of a risk to the National security to be released. Petitioner Khairulla Khairkhwa, detainee, filed an appeal in the US Court of Appeals for the District of Columbia. The appeal was against Barack Obama, President of the United States, ET AL, appellees. Only a year and a half ago on 12.14.2012 a three judge panel of the circuit Judges Rogers, Garland and Randolph affirmed the decision by Judge Urbina.

In his opinion Senior Circuit Judge Randolph wrote as follows:

"Khairkhwa is a detainee at Guantanamo Bay Naval Base. *Khairkhwa v. Obama*, 793 F. Supp. 2d 1 (D.D.C. 2011). The Authorization for Use of Military Force (AUMF), Pub. L. No. 107-40, 115 Stat. 224 (2001), authorized the President to detain individuals who were "part of" al-Qaeda, the Taliban, or associated forces engaged in hostilities against the United States or its allies. *See, e.g., Al-Bihani v. Obama*, 590 F.3d 866, 872 (D.C. Cir. 2010); *Awad v. Obama*, 608 F.3d 1, 11-12 (D.C. Cir. 2010). The National Defense Authorization Act for Fiscal Year 2012 affirmed the President's authority to detain any "person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces." Pub. L. No. 112-81, § 1021, 125 Stat. 1298, 1562 (2011). Khairkhwa, an Afghan national, became a senior Taliban official in 1994, several years after Soviet troops withdrew from Afghanistan. He admits as much but asserts that he was not a

part of the Taliban forces.¹ The evidence presented at a four-day hearing before the district court showed otherwise.

¹ Although the district court discussed classified evidence, the unclassified evidence set forth in this opinion is alone sufficient to sustain the court's denial of Khairkhwa's petition.

Khairkhwa was a Taliban spokesman and senior district administrator for several years, became governor of Kabul for a brief period, and then served as the Taliban's acting interior minister from approximately 1996 to 1999. *Khairkhwa*, 793 F. Supp. 2d at 16. He was one of ten members of the Taliban's highest leadership council, the Supreme Shura, which reported directly to Taliban leader Mullah Omar and supervised subordinate councils responsible for military operations. *Id.* at 32. Most of the members of senior Taliban shuras were also military commanders. *Id.* at 33. Khairkhwa was no exception: the district court found that he was a commander in the 1997 and 1998 Taliban assaults on the western Afghan city of Mazar-e-Sharif.² *Id.* at 21–32.

Mullah Omar appointed Khairkhwa governor of Herat province in October 1999. He was still serving in that position when the United States invaded Afghanistan in the fall of 2001. *Id.* at 16–17, 33. As governor of Herat, Khairkhwa distributed funds to Taliban military and security forces. *Id.* at 35. He had extensive knowledge of Taliban military facilities, personnel, and weapons caches and capabilities. *Id.* at 33–35. After he was captured, Khairkhwa provided detailed information of the Taliban's assessments of shoulder-fired anti-aircraft missiles and of the Taliban's efforts to obtain and protect Stinger missiles. *Id.* at 34–35. He also described each military facility in Herat province, including its location, condition, special characteristics or capabilities, and other sensitive information. *Id.* at 33–34.

² These were major battles fought during the Taliban's violent rise to power. *Khairkhwa*, 793 F. Supp. 2d at 21–22. Taliban forces massacred thousands of the Hazara residents of Mazar-e-Sharif after seizing the city in 1998. *Id.*

The evidence showed, and the district court found, that officials in Khairkhwa's position possessed military authority under the Taliban governance structure. *Id.* at 33. “[N]early all senior Taliban leaders held both civilian and military positions”;

Khairkhwa's predecessor, Mullah Abdul Razaq, was a senior military commander while he was governor of Herat. *Id.* The obvious inference to be drawn from all of this evidence, an inference the district court correctly drew, is that it was more than likely that Khairkhwa wielded authority over military matters during his tenure as governor of Herat.

Khairkhwa admits that he met with senior Iranian officials several times while serving as Herat's governor. He does not deny that at one such meeting in January 2000, the participants discussed how to protect Afghanistan from United States intervention. Relying in part on these admissions, the district court found that Khairkhwa participated in another high-level meeting with Iranian officials in early October 2001. *Id.* at 37-38. The Iranian delegation included the deputy commander of the Iranian Foreign Intelligence Service and the head of the Afghan Department of the Iranian Foreign Intelligence Service. *Id.* at 37. In anticipation of the U.S.-led military operation, the Iranian officials offered military support for the Taliban's defense, including anti-aircraft missiles, other unspecified equipment, and free passage for "Arabs" traveling between Iran and Afghanistan. *Id.* at 37-38. The Taliban delegation also included Abdul Manan Niazi, the governor of Kabul and commander of the Taliban forces who committed atrocities at Mazar-e-Sharif in August 1998. *Id.* at 37.

The district court thought it significant that Khairkhwa was appointed to represent the Taliban in these high-level military meetings. To the court, the evidence showed that Khairkhwa "was entrusted with significant military-related responsibilities at the time of the outbreak of hostilities with the United States and strongly indicates that he was part of Taliban forces at that time." *Id.* at 40. The court properly rejected Khairkhwa's assertion that he was merely a security officer protecting the Taliban delegation. Even if the evidence supported Khairkhwa's version, which it does not, this would still "demonstrate that he possessed command authority over Taliban forces on the eve of the U.S.-led invasion," *id.* at 39.

The district court also found that Khairkhwa continued to operate within the formal Taliban command structure after Operation Enduring Freedom began in early October 2001, and provided support to Taliban military forces. *Id.* at 40.

Khairkhwa admitted, during a 2002 interrogation, that in early November 2001 he traveled from Herat to the Taliban-controlled Kandahar province in a convoy of vehicles full of weapons and that he turned over the weapons to a local official. *Id.* at 40–41. Khairkhwa was arrested in Chaman, Pakistan, at the home of Abdul Manan Niazi, the same former Taliban governor who commanded Taliban forces at Mazar-e-Sharif, and who joined Khairkhwa in the October 2001 meeting with Iranian intelligence officials. *Id.* at 44–45. The circumstances of Khairkhwa's capture, his close ties with Mullah Omar, and the absence of anything showing that he dissociated himself from the Taliban demonstrated that Khairkhwa remained part of the Taliban forces at the time of his capture. *Id.* at 43–45." (exhibit 1 Memorandum opinion in 11-5180 Khairulla Khairkhwa)

In spite of the ruling by both District and Circuit courts that Khairulla Kahirkhwa was a senior Taliban commander who was responsible for military actions where thousands of people were slaughtered, and in clear violation of NDAA of 2014 not providing 30 day notification to the US Congress, citizen of Indonesia Soetoro-Soebarkah-Obama released Khairkhwa and paid for his travel to Qatar were Khairkhwa is allowed to live free.

It is noteworthy that on June 4, 2014, **four days after the release**, not before the release, Obama notified the US District court. Exhibit 1 Notice of transfer of Khairulla Khairkhwa et al v Bush 08-cv-01805 RCL, ECF 225. Obama, who became the lead respondent in the case, filed "Notice of Transfer" stating "Respondents hereby provide notice that the United States has relinquished custody of Petitioner KHAIR ULLA SAID WALI KHAIRHWA (ISN 579) and transferred him to the control of Qatar. June 4, 2014" So, if the US District Court Senior Judge, Royce C. Lambeth, who was overseeing the case after resignation of Judge Urbina, wanted to stay this release due to prior finding of threat to national security, this could not have been done, since Obama notified the court **four days after he sent the detainee to sunbathe in Qatar**. Similarly Obama did not provide 30 day notification to the US Congress, which was required under 2014 NDAA, so the two co-equal branches of the US government were not able to stop this egregious act of treason and this transfer which greatly endangered US

National security. Consequently Taliban commanders made statements that this release was equal to gaining 10,000 Taliban fighters.

It is further noteworthy that Obama did not title the document as a release from GITMO, but titled is as a transfer. Further, the name of the detainee was written differently from the name in the caption in the case, which made it difficult to find the document. In the caption the first name of the detainee is Khairulla. In the release, titled as transfer, the first name was divided into two names: "KHAI ULLA'. Moreover, two middle names, which were not in the original caption were incerted: "SAID WALI". So the original name from the caption in the case "Khairulla Khairkhwa" looked completely different "KHAIR ULLA SAID WALI KHAIRKHW". Plaintiff believes that it was done to obfuscate the record.

Actions by Obama clearly represented TREASON, "giving aid and comfort to the enemy" per 18 US§2381. Shortly after these actions by Obama, greatly encouraged and invigorated jihadists and Taliban fighters took over the airport in Karachi and murdered 12. Five US soldiers were killed reportedly with stinger missile, jihadists groups went into offensive and took over the whole area between central Syria to central Iraq and took over Mosul and Tikrit. This caused fleeing by 500,000 refuges and the jihadist army is now rapidly closing in on the capital of Iraq, Bagdad. Based on all of the above over 4,000 lives of the US soldiers lost in operation "Iraqi Freedom", were lost in vain, not mentioning 68,000 soldiers, who were severely wounded, paralyzed, lost limbs and became disabled for life. Plaintiff believes that exigency of this matter is flagrantly obvious and self explanatory, not requiring further briefing.

This court has in front of it evidence showing that Barack Obama is using a stolen Connecticut Social Security number xxx-xx-4425 of Harry Bounel, which failed E-Verify and SSNVS, when checked under Obama. this court has evidence of Obama' use of other bogus IDs, as well as an act of treason committed by Obama. further refusal by this court to release the aforementioned SS-5 and refusal to forward all of the aforementioned evidence of offenses against the criminal laws of the US to the Federal grand jury, will make this court complicit in aiding and abetting in these offenses, including treason. This court has in front of it Plaintiff's motion to reconsider 18US 3332 (a) It shall be the duty of each such grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of

the United States alleged to have been committed within that district. Such alleged offenses may be brought to the attention of the grand jury by the court or by any attorney appearing on behalf of the United States for the presentation of evidence. Any such attorney receiving information concerning such an alleged offense from any other person shall, if requested by such other person, inform the grand jury of such alleged offense, the identity of such other person, and such attorney's action or recommendation." plaintiff Taitz is seeking expediting of the above motions for reconsideration.

REQUESTED RELIEF

- 1. TO EXPEDITE MOTION FOR RECONSIDERATION, EXPEDITE RELEASE OF THE SS-5 TO SSN XXX-XX-4425 OF HARRY BOUNEL FRAUDULENTLY ASSUMED BY BARRY SOETORO, AKA BARRY SOEBARKAH, AKA BARACK OBAMA.**
- 2. TO EXPEDIENTLY FORWARD TO THE FEDERAL GRAND JURY UNDER 18 USC 3332 OR ORDER BY THE COURT TO THE US ATTORNEY TO FORWARD TO THE FEDERAL GRAND JURY EVIDENCE OF OBAMA'S USE OF A STOLEN CT SSN XX-XX-4425 AND BOGUS IDS, AS WELL AS RECENT ACT OF TREASON BY OBAMA, AKA SOETORO, AKA SOEBARKAH.**

Respectfully submitted,

Dr. Orly Taitz, ESQ



cc James Comey, Director of FBI

cc Inspector General department of justice

cc International Criminal Court

cc Inter-American Commission for Human rights

cc House Armed services Committee

cc Judiciary Committee

EXHIBIT 1

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued October 5, 2012

Decided December 14, 2012

No. 11-5180

KHAIRULLA KHAIRKHWA, DETAINEE, GUANTANAMO BAY
NAVAL STATION, AND SAMI AL HAJI, AS NEXT FRIEND OF
KHAIRULLA KHAIRKHWA,
APPELLANTS

v.

BARACK OBAMA, PRESIDENT OF THE UNITED STATES, ET AL.,
APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 1:08-cv-01805)

J. Griffin Morgan argued the cause for appellant. With him
on the briefs were *Robert M. Elliot* and *C. Frank Goldsmith, Jr.*

Dana Kaersvang, Attorney, U.S. Department of Justice,
argued the cause for appellees. With her on the brief were *Tony
West*, Assistant Attorney General, *Ian Heath Gershengorn*,
Deputy Assistant Attorney General, and *Robert M. Loeb*,
Attorney. *Lowell V. Sturgill Jr.*, Attorney, entered an
appearance.

Before: ROGERS and GARLAND, *Circuit Judges*, and
RANDOLPH, *Senior Circuit Judge*.

Opinion for the Court filed by *Senior Circuit Judge*
RANDOLPH.

RANDOLPH, *Senior Circuit Judge*: This is an appeal from the judgment of the district court, Urbina, J., denying Khairulla Khairkhwa's petition for a writ of habeas corpus.

Khairkhwa is a detainee at Guantanamo Bay Naval Base. *Khairkhwa v. Obama*, 793 F. Supp. 2d 1 (D.D.C. 2011). The Authorization for Use of Military Force (AUMF), Pub. L. No. 107-40, 115 Stat. 224 (2001), authorized the President to detain individuals who were "part of" al-Qaeda, the Taliban, or associated forces engaged in hostilities against the United States or its allies. *See, e.g., Al-Bihani v. Obama*, 590 F.3d 866, 872 (D.C. Cir. 2010); *Awad v. Obama*, 608 F.3d 1, 11-12 (D.C. Cir. 2010). The National Defense Authorization Act for Fiscal Year 2012 affirmed the President's authority to detain any "person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces." Pub. L. No. 112-81, § 1021, 125 Stat. 1298, 1562 (2011).

Khairkhwa, an Afghan national, became a senior Taliban official in 1994, several years after Soviet troops withdrew from Afghanistan. He admits as much but asserts that he was not a part of the Taliban forces.¹ The evidence presented at a four-day hearing before the district court showed otherwise.

¹ Although the district court discussed classified evidence, the unclassified evidence set forth in this opinion is alone sufficient to sustain the court's denial of Khairkhwa's petition.

Khairkhwa was a Taliban spokesman and senior district administrator for several years, became governor of Kabul for a brief period, and then served as the Taliban's acting interior minister from approximately 1996 to 1999. *Khairkhwa*, 793 F. Supp. 2d at 16. He was one of ten members of the Taliban's highest leadership council, the Supreme Shura, which reported directly to Taliban leader Mullah Omar and supervised subordinate councils responsible for military operations. *Id.* at 32. Most of the members of senior Taliban shuras were also military commanders. *Id.* at 33. Khairkhwa was no exception: the district court found that he was a commander in the 1997 and 1998 Taliban assaults on the western Afghan city of Mazar-e-Sharif.² *Id.* at 21–32.

Mullah Omar appointed Khairkhwa governor of Herat province in October 1999. He was still serving in that position when the United States invaded Afghanistan in the fall of 2001. *Id.* at 16–17, 33. As governor of Herat, Khairkhwa distributed funds to Taliban military and security forces. *Id.* at 35. He had extensive knowledge of Taliban military facilities, personnel, and weapons caches and capabilities. *Id.* at 33–35. After he was captured, Khairkhwa provided detailed information of the Taliban's assessments of shoulder-fired anti-aircraft missiles and of the Taliban's efforts to obtain and protect Stinger missiles. *Id.* at 34–35. He also described each military facility in Herat province, including its location, condition, special characteristics or capabilities, and other sensitive information. *Id.* at 33–34.

² These were major battles fought during the Taliban's violent rise to power. *Khairkhwa*, 793 F. Supp. 2d at 21–22. Taliban forces massacred thousands of the Hazara residents of Mazar-e-Sharif after seizing the city in 1998. *Id.*

The evidence showed, and the district court found, that officials in Khairkhwa's position possessed military authority under the Taliban governance structure. *Id.* at 33. "[N]early all senior Taliban leaders held both civilian and military positions"; Khairkhwa's predecessor, Mullah Abdul Razaq, was a senior military commander while he was governor of Herat. *Id.* The obvious inference to be drawn from all of this evidence, an inference the district court correctly drew, is that it was more than likely that Khairkhwa wielded authority over military matters during his tenure as governor of Herat.

Khairkhwa admits that he met with senior Iranian officials several times while serving as Herat's governor. He does not deny that at one such meeting in January 2000, the participants discussed how to protect Afghanistan from United States intervention. Relying in part on these admissions, the district court found that Khairkhwa participated in another high-level meeting with Iranian officials in early October 2001. *Id.* at 37-38. The Iranian delegation included the deputy commander of the Iranian Foreign Intelligence Service and the head of the Afghan Department of the Iranian Foreign Intelligence Service. *Id.* at 37. In anticipation of the U.S.-led military operation, the Iranian officials offered military support for the Taliban's defense, including anti-aircraft missiles, other unspecified equipment, and free passage for "Arabs" traveling between Iran and Afghanistan. *Id.* at 37-38. The Taliban delegation also included Abdul Manan Niazi, the governor of Kabul and commander of the Taliban forces who committed atrocities at Mazar-e-Sharif in August 1998. *Id.* at 37.

The district court thought it significant that Khairkhwa was appointed to represent the Taliban in these high-level military meetings. To the court, the evidence showed that Khairkhwa "was entrusted with significant military-related responsibilities at the time of the outbreak of hostilities with the United States

and strongly indicates that he was part of Taliban forces at that time.” *Id.* at 40. The court properly rejected Khairkhwa’s assertion that he was merely a security officer protecting the Taliban delegation. Even if the evidence supported Khairkhwa’s version, which it does not, this would still “demonstrate that he possessed command authority over Taliban forces on the eve of the U.S.-led invasion,” *id.* at 39.

The district court also found that Khairkhwa continued to operate within the formal Taliban command structure after Operation Enduring Freedom began in early October 2001, and provided support to Taliban military forces. *Id.* at 40. Khairkhwa admitted, during a 2002 interrogation, that in early November 2001 he traveled from Herat to the Taliban-controlled Kandahar province in a convoy of vehicles full of weapons and that he turned over the weapons to a local official. *Id.* at 40–41.

Khairkhwa was arrested in Chaman, Pakistan, at the home of Abdul Manan Niazi, the same former Taliban governor who commanded Taliban forces at Mazar-e-Sharif, and who joined Khairkhwa in the October 2001 meeting with Iranian intelligence officials. *Id.* at 44–45. The circumstances of Khairkhwa’s capture, his close ties with Mullah Omar, and the absence of anything showing that he dissociated himself from the Taliban demonstrated that Khairkhwa remained part of the Taliban forces at the time of his capture. *Id.* at 43–45.

Khairkhwa thinks the government had to prove more. By his lights, the government also had to show that he “fought or engaged in armed conflict or hostilities against the United States or its allies” and that if he were released, he would pose a danger to the United States in the future. Pet’r’s Br. 9. The decisions of this court are to the contrary.

In order to detain individuals who were part of the Taliban or al-Qaeda forces, proof that the individuals also actively engaged in combat against the United States and its allies is unnecessary. *Al-Bihani* so decided, 590 F.3d at 872–74, as have many of our other decisions. See, e.g., *Uthman v. Obama*, 637 F.3d 400, 402 (D.C. Cir. 2011); *Al-Adahi v. Obama*, 613 F.3d 1102, 1103 (D.C. Cir. 2010); *Al Odah v. United States*, 611 F.3d 8, 10 (D.C. Cir. 2010); *Barhoumi v. Obama*, 609 F.3d 416, 423, 427 (D.C. Cir. 2010); *Awad*, 608 F.3d at 11–12. Khairkhwa calls the standard set forth in *Al-Bihani* “dictum” because the detainee in that case actually “participated in hostilities.” Pet’r’s Reply Br. 4. If by this he means the detainee fired a shot or detonated an explosive, the distinction is unsupportable on the evidence. *Al-Bihani* did not engage in combat in those terms—he was a cook for forces associated with the Taliban; he carried a firearm but never used it in “hostilities.” See 590 F.3d at 869. Like Khairkhwa, *Al-Bihani* contended that he could be detained only if he had committed “a direct hostile act, such as firing a weapon in combat,” *id.* at 871. In rejecting that contention, the court ruled that *Al-Bihani*’s role as part of forces associated with the Taliban was enough to justify his detention. *Id.* at 872–73. All of our decisions citing the *Al-Bihani* standard are consistent with this reading of the opinion.

Khairkhwa’s argument is in any event untenable. In modern warfare, commanding officers rarely engage in hand-to-hand combat; supporting troops behind the front lines do not confront enemy combatants face to face; supply-line forces, critical to military operations, may never encounter their opposition.

As to Khairkhwa’s other point—that a person may not be detained unless the evidence also shows that he would pose a danger to the United States if released—*Awad* squarely rejected the argument. 608 F.3d at 11. Khairkhwa recognizes this, but

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insists that *Awad* was wrongly decided. Pet'r's Reply Br. 6. What he fails to recognize is that one three-judge panel of this court may not overrule another three-judge panel. *LaShawn A. v. Barry*, 87 F.3d 1389, 1395 (D.C. Cir. 1996) (en banc).

We find no clear error in the district court's factual determinations. *Awad*, 608 F.3d at 6–7. The evidence recited above establishes that Khairulla Khairkhwa was at least more likely than not a part of the Taliban forces.³ *See id.* at 10–12; *see also Al-Adahi*, 613 F.3d at 1103–05; *Al-Bihani*, 590 F.3d at 872. Accordingly, the district court's denial of Khairkhwa's petition for a writ of habeas corpus is

Affirmed.

³ We have considered and rejected Khairkhwa's other contentions.

EXHIBIT 2

IN THE UNITED STATES DISTRICT
FOR THE DISTRICT OF COLUMBIA

KHAIR ULLA SAID WALI
KHAIRKHWAW,

Petitioner,

v.

GEORGE W. BUSH, et al.,

Respondents.

Civil Action No. 08-CV-1805 (UNA)

Notice of Transfer

Respondents hereby provide notice that the United States has relinquished custody of Petitioner KHAIR ULLA SAID WALI KHAIRKHWAW (ISN 579) and transferred him to the control of Qatar.

June 4, 2014

Respectfully submitted,

STUART F. DELERY
Acting Assistant Attorney General

JOSEPH H. HUNT
Director, Federal Programs Branch

TERRY M. HENRY
Assistant Branch Director

/s/ Timothy B. Walthall

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Attorneys for Respondents

I, Lila Dubert, attest that I served attached motion on the defense by placing it in the First class mail on 06.12. 2014

Signed

Lila Dubert

