

UNCLASSIFIED

ACTION IO-00

INFO LOG-00 AF-00 AMAD-00 CA-00 CIAE-00 INL-00 DODE-00
 WHA-00 EAP-00 DHSE-00 EUR-00 UTED-00 H-00 TEDE-00
 INR-00 LAB-01 NEA-00 NSAE-00 OIC-00 NIMA-00 OPR-00
 GIWI-00 DOHS-00 SP-00 SSO-00 SS-00 NCTC-00 PRM-00
 DRL-00 G-00 SCA-00 SAS-00 SWCI-00 /001W

-----EODCA8 101010Z /38

R 100959Z JUL 07

FM USMISSION GENEVA

TO SECSTATE WASHDC 4692

USMISSION USUN NEW YORK

RELEASED IN FULL

UNCLAS GENEVA 001755

STATE FOR IO-RHS, DRL-MLA, L-HRR

E.O. 12958: N/A

TAGS: PHUM, UNHRC-1

SUBJECT: Death in Custody of Ahmed Ali Abdullah - #19 in Geneva 2007
Communications Log

1. Mission has received a communication from the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, regarding the death in custody of Ahmed Ali Abdullah. This communication has been sent via e-mail to IO-RHS and is #19 on the Geneva 2007 Communications Log.

2. Begin text of letter:
 Excellency,

I have the honour to address you in my capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Commission on Human Rights resolution 2004/37, to General Assembly resolution 60/251 and to Human Rights Council decision 2006/102.

In this connection, I would like to bring the attention of your Excellency's Government information I have received regarding the death in custody of Mr. Ahmed Ali Abdullah, named Salah Addin Ali Ahmed Al-Salami in other reports, at the Guantanamo Bay detention facility on 10 June 2006.

According to the information I have received,

Mr. Abdullah was a citizen of Yemen detained at the Guantanamo Bay detention camp since 2002. He died there on 10 June 2006, on the same day as two other detainees of Saudi citizenship, Messrs. Yassir Talal Az-Zahrani and Mani' Shaman Al-Utaybi. Your Excellency's

UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: JOHN L MILLS
 DATE/CASE ID: 03 MAY 2011 200908726

UNCLASSIFIED

Government explained that the three men had committed suicide by hanging themselves in their cells. A medical team directed by Dr. Craig T. Mallak, Armed Forces Medical Examiner, carried out an autopsy. A few days after the incident, the bodies of the three men were transported back to their respective home countries. UNCLASSIFIED

Refusing to accept your Government's statement that Mr. Abdullah had committed suicide, his family asked a Geneva-based non governmental organisation, Alkarama for Human Rights, to assist with organising an autopsy. Alkarama gave a mandate to this effect to a medical team headed by Prof. Patrice Mangin, director of the Institut de Medecine legale of Lausanne University in Switzerland. This autopsy was carried out at the military hospital of Sanaa and was followed by further laboratory analysis at the Institut in Lausanne on samples taken from Mr. Abdullah's body.

By letter to Dr. Mallak, the Armed Forces Medical Examiner, dated 29 June 2006 and sent to the US Embassy in Bern with a request to forward it to the addressee, Alkarama expresses the wish "to put you [Dr. Mallak] in touch with the Lausanne medical team which needs some documents, materials and explanations from your side in order for them to formalize their report of autopsy". The letter then sets forth some specific requests, in particular a copy of the autopsy report of the US Armed Forces Medical Examiner and a copy of the report of the investigation carried out by the authorities of the detention facility into the death, including information on the circumstances of the discovery of the deceased, on the ligatures he used to hang himself, on reanimation attempts, on the reasons all the finger and toe nails were cut, on his psychological state in the days preceding his death, as well as on previous suicide attempts by Mr. Abdullah. Neither your Excellency's Government nor Dr. Mallak ever replied to this request.

On 20 July 2006, Prof. Mangin transmitted his team's autopsy report to Alkarama. The conclusions of the report, insofar as relevant to the present letter, are:

- 1) That Mr. Abdullah's death was most probably caused by asphyxiation through violence against the neck due to hanging, although other dynamics could not be formally excluded;
- 2) That it should be possible to explain the traces of puncture/injection with bleeding into the skin and the dental trauma found on the body as consequences of attempts to reanimate Mr. Abdullah. If that was not the case, they would constitute elements of suspicion with regard to the cause of death;
- 3) That at the current state of the medical team's investigation (and subject to (2) above), the findings are not incompatible with suicide by hanging.

UNCLASSIFIED

As your Excellency's Government will know, the family of Mr. Abdullah, and others have raised doubts as to whether he really did commit suicide. In support of their doubts they argue that:

- 1) according to co-detainees, Mr. Abdullah (as well as Messrs. Yassir Talal Az-Zahrani and Mani' Shaman Al-Utaybi) was in good spirits in the days preceding his death;
- 2) as a person known to follow strictly the precepts of Islam, he would never have committed suicide;
- 3) the tight surveillance of the cells, with permanent video-surveillance and guards passing in front of each cell every two to five minutes, would make a suicide by hanging impossible in the absence of collusion by the guards; and
- 4) it is materially impossible for a detainee to hang himself in the cell, as there is (again according to reports of other former detainees) absolutely no place a detainee could fix the ligature used to hang himself.

The suspicions harboured by Mr. Abdullah's family have been reinforced by the reported refusal of your Excellency's Government to share the results of its investigation into the death with a US-based law firm retained by them or with any of the other entities who have requested information (including Prof. Mangin and a renowned US-based non-governmental organisation).

Notwithstanding these arguments, I do not at present have reason to doubt your Government's assertion that Mr. Abdullah's death was due to suicide. I would like, however, to draw your Government's attention to a fundamental principle applicable under international law to this case: When the State detains an individual, it is held to a heightened level of diligence in protecting that individual's rights. As a consequence, when an individual dies in State custody, there is a presumption of State responsibility. In this respect, I would like to recall the conclusion of the Human Rights Committee in a custodial death case (*Dermit Barbato v. Uruguay*, communication no. 84/1981 (21/10/1982), paragraphe 9.2):

"While the Committee cannot arrive at a definite conclusion as to whether Hugo Dermit committed suicide; was driven to suicide or was killed by others while in custody; yet, the inescapable conclusion is that in all the circumstances the Uruguayan authorities either by act or by omission were responsible for not taking adequate measures to protect his life, as required by article 6 (1) of the Covenant."

In order to overcome the presumption of State responsibility for a death in custody, there must be a "thorough, prompt and impartial

UNCLASSIFIED

investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances" (Principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). This principle was reiterated by the 61st Commission on Human Rights in Resolution 2005/34 on "Extrajudicial, summary or arbitrary executions" (OP 4), stating that all States have "the obligation ... to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions". I would like to add that even the most "thorough, prompt and impartial investigation" of a custodial death will not satisfy your Excellency's Government's obligations under international law if its results are not shared with the family of the victim and subjected to public scrutiny.

I therefore urge your Excellency's Government to respond positively and exhaustively to the requests for information and copies of reports or other documents regarding your Government's investigation into the death of Mr. Abdullah, particularly so when these requests are made by persons acting with due authorization on behalf of his family.

It is my responsibility under the mandate provided to me by the Commission on Human Rights, extended by the Human Rights Council and reinforced by the appropriate resolutions of the General Assembly to seek to clarify all cases brought to my attention. Since I am expected to report on this case to the Human Rights Council, I would be grateful if you could also share with me copies of all the clarification and documents you will provide to Mr. Abdullah's family through their US lawyers (Dickstein Shapiro LLP), Prof. Mangin or Alkarama.

I would appreciate a response within sixty days. I undertake to ensure that the response of your Excellency's Government to each of these questions is accurately reflected in the reports I will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Philip Alston Special Rapporteur on extrajudicial, summary or arbitrary executions

End of text.

Chammas

NNNN

UNCLASSIFIED