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Afghanistan Independent Human Rights Commission
(AIHRC)

PRESS RELEASE:
U.S. v. Jawad
Kabul, Afghanistan
Monday 25 May 2009

Mr. Mohammad Jawad, a child of Afghanistan, was arrested along with at least one other person by Kabul Police during December, 2002 in connection with a grenade attack which injured two U.S. soldiers and an Afghan interpreter. After being tortured and abused by Afghan police at District 2 police station in Kabul, U.S. Forces tried to obtain Jawad at the police station, however, Jawad was moved to the Interior Minister's office. U.S. Forces then aggressively requested and obtained custody of Mr. Jawad, who was approximately 12 years old at the time of his detention. This began a six year long journey of torture, abuse, and isolation while in U.S. custody for this young boy as reflected in numerous court filings and rulings. The United States then unilaterally removed Mr. Jawad from Bagram, Afghanistan in February 2003 and transferred him to Guantanamo Bay, Cuba where he has remained since. Jawad has been continuously deprived of age-appropriate conditions or rehabilitative opportunities as required by the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Optional Protocol) of which the United States and Afghanistan are signatories.

U.S. Marines Major Eric S. Montalvo* and Captain Christopher L. Kannady* assigned to the Office of Military Commissions-Defense in Washington D.C., plan to file a petition in the Supreme Court of Afghanistan Monday, May 25, 2009, with Afghanistan Independent Human Rights Commission (AIHRC) to challenge what they believe to be an unlawful extradition of a falsely accused Afghan child. The Afghanistan Independent Human Rights Commission (AIHRC)* have been carrying its independent investigation into the case and have previously called for the Afghan government to employ appropriate measures in the case to facilitate Jawad's return.

The basis lies within the violation of National sovereignty by the U.S., the Constitution of Afghanistan (1964) in place at the time as well as the current Constitution of Afghanistan (2004), which explicitly prohibits extradition to a foreign country. The remedy they are seeking is a writ of mandamus to be issued to the Afghan government requiring them to seek the immediate repatriation of Jawad based on sound legal doctrine and to fully investigate the Afghanistan police conduct surrounding this case. This would be an unprecedented filing in the Supreme Court of Afghanistan.

Montalvo and Kannady recently met with the Minister of Defense General Wardak. He is fully supportive of efforts to return Jawad back to Afghanistan. Montalvo has also met with UNICEF personnel to coordinate

repatriation efforts should Jawad be released. This lawsuit is also supported by the Afghan Bar Association.

For more information please contact:

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*Major Eric Montalvo, current detailed counsel in the case, holds a JD from Temple University, Beasley School of Law. He is a prior enlisted Marine who has served on active duty since 1988. He has served in Desert Storm, Operation Iraqi Freedom, and has deployed to Afghanistan twice.

*Captain Christopher Kannady, current assistant counsel in the case, holds a JD/MBA from the University of Oklahoma College of Law. He has served on active duty since 2004. He has served in Operation Iraqi Freedom and has deployed to Afghanistan twice.