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Rights Groups Urge French Appeals Court to Subpoena Former Guantánamo Commander in Torture Investigation

March 5, 2015, Paris/Berlin/New York – Today, at an appeals hearing at the *Chambre de l’instruction de la Cour d’appel de Paris*, the attorney for former Guantánamo detainees Nizar Sassi and Mourad Benchellali, William Bourdon, challenged an April 2014 decision by two French investigative judges not to subpoena former Guantánamo Commander Geoffrey D. Miller to explain his role in the torture and other serious mistreatment of former detainees.

The New York-based Center for Constitutional Rights (CCR) and Berlin-based European Center for Constitutional and Human Rights (ECCHR) had submitted an expert report in the proceedings in February 2014 that detailed the commander’s alleged individual criminal responsibility for detainee abuse in Guantánamo amounting to torture under international law. The parties requested that Miller be heard as a suspect in the investigation proceedings. The judges based their refusal to subpoena Miller on their belief that the United States would not cooperate in making him available. According to news reports, the previous French investigative judge assigned to the case, Sophie Clement, had requested access to the detention camp at Guantánamo Bay, to relevant documents, as well as to anyone who had contact with the three victims during their detention there. The United States still has not replied. Today, the former detainees are asking the appeals court to rule that the decision not to subpoena Geoffrey Miller was ill-founded.

“That the United States is wholly unwilling to investigate and prosecute the very serious claims of torture involving high-level U.S. officials is the very reason for France to thoroughly investigate this case— not shelve it, thereby extending impunity across borders,” said **Center for Constitutional Rights Senior Staff Attorney Katherine Gallagher, who is also Vice President of the International Federation for Human Rights (FIDH)**.

“Geoffrey Miller should be summoned and questioned about his role in the U.S. torture program at Guantánamo.”

CCR and ECCHR supported the appeals hearing with the submission of new documents explaining Geoffrey Miller’s place in the overall command structure within the United States government while he was commander of Guantánamo. The organizations also submitted background information on the torture program and the implementation of interrogation techniques violating international law at Guantánamo, based on the findings of the 2008 Senate Armed Services Committee report on detainee abuse.

Andreas Schüller, legal advisor at ECCHR said, “France must not hide behind the lack of cooperation by the U.S. There is sufficient evidence accessible outside the United States to proceed with the investigation. Geoffrey Miller must be subpoenaed as suspect. The French

justice system must stand for the rule of law and fully address the responsibility of U.S. officials for the torture of these French nationals.”

William Bourdon adds: "France should be proud that it initiated a criminal investigation for the abduction, arbitrary detention and acts of torture and barbarism committed against its citizens, Mourad Benchellali and Nizar Sassi, in Guantánamo Bay. It appears unthinkable, in view of the gathered elements, that the Court of Appeal would refuse to ask the investigative judge to summon Geoffrey Miller to ask him to explain himself. All conclusions should be drawn if MG Miller refuses to answer this summon. French justice would now honor itself by participating to establishing the truth on the responsibilities concerning extremely serious acts whose perpetrators so far remain unpunished."

In France, the investigations started after two former Guantánamo detainees, French citizens Nizar Sassi and Mourad Benchellali, lodged a criminal complaint in November 2002, later joined by a third former detainee, Khaled Ben Mustapha. In January 2012, following a motion filed by the former detainees’ lawyer, William Bourdon, the investigating judge issued a formal request, or “letter rogatory”, to the United States. No response, to this day, has ever been received.

The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. CCR has led the legal battle over Guantánamo since 2002 – representing clients in two United States Supreme Court cases and organizing and coordinating hundreds of pro bono lawyers across the country to represent the men at Guantánamo. CCR has also filed cases against high-level U.S. officials, including George W. Bush and Donald Rumsfeld, in Canada, Germany, and France, and released a Bush Torture Indictment, ready to be tailored to the specific laws of any of the 154 countries that are a party to the Convention Against Torture where he may travel. Visit www.ccrjustice.org; follow @theCCR.

The European Center for Constitutional and Human Rights (ECCHR) is an independent, non-profit legal and educational organization dedicated to protecting civil and human rights. ECCHR focusses on enforcing human rights by legal means. Since its foundation in 2007, ECCHR acted before national prosecution services and courts as well as before the International Criminal Court to bring perpetrators of international crimes to justice. From the very beginning, ECCHR pursued cases against U.S. officials for their responsibility within the U.S. torture and rendition programs. Visit www.ecchr.eu; follow @ECCHRBerlin.