

Exhibit 4

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

LEILA N. SADAT; K. ALEXA KOENIG; NAOMI
ROHT-ARRIAZA; and STEVEN M. WATT,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official capacity as
President of the United States; U.S.
DEPARTMENT OF STATE; ANTONY J.
BLINKEN, in his official capacity as Secretary of
State; U.S. DEPARTMENT OF THE TREASURY;
JANET L. YELLEN, in her official capacity as
Secretary of the Treasury; U.S. DEPARTMENT
OF JUSTICE; MERRICK GARLAND, in his
official capacity as Attorney General; OFFICE OF
FOREIGN ASSETS CONTROL; and BRADLEY
T. SMITH, in his official capacity as Acting
Director of the Office of Foreign Assets Control,

*Defendants.*¹

Civil Case No.: 3:21-cv-00416-CRB

DECLARATION OF STEVEN M. WATT

¹ Pursuant to Federal Rule of Civil Procedure 25(d), the Defendants originally named in this action have been substituted with the names of their successors in office.

1 I, Steven M. Watt, hereby declare as follows:

2 1. I am a plaintiff in the above-captioned action.

3 2. I am a Senior Staff Attorney with the Human Rights Program at the American Civil
4 Liberties Union (“ACLU”). I have served in this role since November 2004. I reside in Brooklyn, New
5 York, and am a citizen of the United States and the United Kingdom.

6 3. At the ACLU, my practice has focused specifically on the representation of individuals that
7 have been subject to torture, extraordinary rendition, and inhumane interrogation programs at the hands
8 of U.S. military and intelligence personnel in the aftermath of the 9/11 attacks. My practice also touches
9 on issues relating to human trafficking and forced labor, juvenile justice, women’s and immigrants’ rights,
10 and prison conditions.

11 4. Among the clients that I represent are six individuals who were victims of crimes
12 committed by CIA and U.S. military personnel in Afghanistan: Khaled El-Masri, Suleiman Abdullah
13 Salim, Obaid Ullah (as personal representative of Gul Rahman), Mohamed Ahmed Ben Soud, Khaled Al-
14 Sharif, and Majid Maghrebi. My work on behalf of these clients includes litigation in U.S. federal courts,
15 the filing of Freedom of Information Act Requests, and advocacy before the Inter-American Commission
16 on Human Rights and the International Criminal Court (“ICC”).

17 5. In 2013, I was contacted by the Head of the Situation Analysis Section of the Jurisdiction,
18 Complementarity and Cooperation Division of the Office of the Prosecutor (“OTP”) of the ICC, Emeric
19 Rogier, who reports to Fatou Bensouda, the Prosecutor of the ICC and the head of the OTP. Mr. Rogier
20 contacted me in connection with a petition that I had submitted on behalf of three clients before the Inter-
21 American Commission on Human Rights. I subsequently provided Mr. Rogier’s office with background
22 information about the petition, including evidence supporting allegations of war crimes committed by
23 U.S. personnel in Afghanistan during the period relevant to the OTP’s preliminary examination into
24 alleged war crimes and crimes against humanity committed in Afghanistan, which encompasses the period
25 beginning on May 1, 2003.

26 6. In November 2015, members of the OTP team conducting the preliminary examination
27 contacted me regarding three clients that I represented in U.S. federal court litigation concerning alleged
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1 war crimes committed by the CIA in Afghanistan during the period relevant to the OTP’s preliminary
2 examination. During subsequent discussions with that OTP team, I provided information and evidence
3 regarding alleged war crimes and crimes against humanity committed by U.S. personnel against my clients
4 in Afghanistan. These exchanges took the form of email exchanges and telephonic conferences.

5 7. In January 2018, in support of Ms. Bensouda’s request for authorization under Article 15
6 of the Rome Statute to pursue a formal investigation into the situation in Afghanistan, I prepared and
7 submitted victim representation forms on behalf of Mssrs. El-Masri, Salim, Ullah, Ben Soud, Al-Sharif,
8 and Maghrebi. I filed these forms with the ICC’s Victims Participation and Reparations Section (“Victims
9 Section”), a unit of the ICC’s Registry organ that works closely with the OTP and facilitates the
10 submission of victims’ impact statements and evidence to the Pre-Trial Chamber in support of the
11 Prosecutor’s request to open an investigation. After submitting these forms, I also continued to submit
12 new documentary evidence of alleged U.S. war crimes and crimes against humanity in Afghanistan to the
13 OTP via the Victims Section. Ms. Bensouda’s request to the Pre-Trial Chamber for authorization of an
14 investigation into the situation in Afghanistan specifically cited three ACLU cases, and evidence from one
15 such case, in which I represented torture victims and survivors. I provided information about, and
16 supporting evidence from, these cases to the OTP.

17 8. In March 2020, the ICC’s Appeals Chamber authorized Ms. Bensouda to open an
18 investigation into alleged war crimes and crimes against humanity committed in Afghanistan or in
19 connection with the armed conflict there. Following that decision, I applied for victim representative status
20 to participate in investigation-stage proceedings on behalf of Mssrs. El-Masri, Salim, Ullah, Ben Soud,
21 Al-Sharif, and Maghrebi. As of September 2020, I had received confirmation that the Victims Section had
22 granted three of my clients—Mssrs. Salim, Ben Soud, and Al-Sharif—victim status with respect to the
23 investigation phase of the Afghanistan situation. The Victims Section informed me that it required
24 additional information before it could grant victim status to my remaining clients.

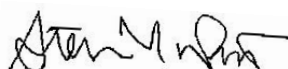
25 9. The threat of enforcement of civil and criminal penalties under the International
26 Emergency Powers Act (“IEEPA”) for violations of the Executive Order and Regulations has caused me
27 to cease these engagements with the OTP and to abandon plans for future acts that I would have undertaken
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1 but for the designations of Ms. Bensouda and Phakiso Mochochoko, the Director of the OTP's
2 Jurisdiction, Complementary, and Cooperation Division.

3 10. In particular, I have ceased all engagement with the OTP and other ICC personnel;
4 abandoned plans to provide to the OTP additional documentary and other evidence of war crimes and
5 crimes against humanity allegedly committed by U.S. personnel in Afghanistan; declined to respond to
6 the Victims Section's request for additional information about my clients; and abandoned any plans, if
7 necessary, to file motions before the Pre-Trial Chamber to seek information from the Prosecutor on the
8 Afghanistan investigation. I have also had to cease my legal representation of Mssrs. El-Masri, Salim,
9 Obaid Ullah, Ben Soud, Al-Sharif, and Maghrebi with respect to the ICC's Afghanistan proceedings, so
10 long as the Executive Order and Designations remain in effect.

11 11. If not for the Executive Order, Designations, and Regulations, I would have performed
12 these actions both in the United States and abroad, and in the process would have communicated and
13 exchanged materials with people in other countries via the Internet or telephonically. I intend to
14 immediately resume engaging with the OTP and the ICC if the Executive Order, Designations, and
15 Regulations are enjoined or rescinded.

16 I declare under penalty of perjury under the laws of the United States of America that the foregoing
17 is true and correct. Executed in Brooklyn, New York on March 11, 2021.

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20 Steven M. Watt