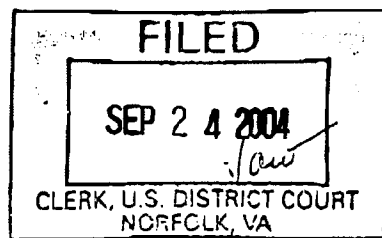


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



YASER ESAM HAMDI,

Petitioner,

v.

CASE NO. 2:02CV439

DONALD RUMSFELD

Secretary of Defense

The Pentagon

Arlington, Va.,

COMMANDER C.T. HANFT,

Commander, Consolidated Naval Brig

1050 Remount Road

Charleston, South Carolina,

Respondents.

MOTION TO STAY PROCEEDINGS

Yaser Esam Hamdi, by counsel, hereby moves the Court to stay the pending proceedings until further action is requested by either party. The United States is simultaneously moving in the Court of Appeals for the Fourth Circuit to stay the issuance of the mandate in this case until October 1, 2004. In support of this motion, Mr. Hamdi states the following:

1. On June 11, 2002, a Petition for Habeas Corpus was filed on behalf of Yaser Esam Hamdi in the Norfolk division of the Eastern District of Virginia;
2. On June 28, 2004, the United States Supreme Court issued an opinion in this case that contemplates additional proceedings;
3. As a result of negotiations, the parties have entered into an Agreement that sets out the terms under which Mr. Hamdi is to be released from custody, and the Agreement is attached as Exhibit A to this Motion;

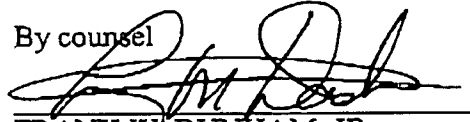
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4. Wherefore, Yaser Hamdi respectfully requests that the Court stay further action in this case pending a request by either party for assistance so that the parties may carry out the terms of the Agreement;
5. The United States has no objection to this Motion.

Respectfully submitted,

YASER ESAM HAMDI

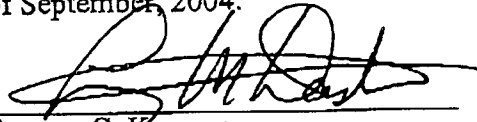
By counsel



Sor
FRANK W. DUNHAM, JR.
FEDERAL PUBLIC DEFENDER
EASTERN DISTRICT OF
VIRGINIA

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was sent via facsimile and by first-class mail to Paul D. Clement, Esq., Acting Solicitor General, Department of Justice, Washington, D.C., 20530-2217, on this the 24th day of September, 2004.


for Jeremy C. Kamens
Assistant Federal Public Defender,
Eastern District of Virginia

Agreement

The United States of America, by and through its representative, and Yaser Esam Hamdi ("Hamdi"), and Hamdi's attorneys Frank W. Dunham, Jr. and Jeremy C. Kamens (collectively "the parties") hereby agree as follows:

WHEREAS the United States captured Hamdi in Afghanistan and is detaining him at a naval brig in Charleston, South Carolina as an enemy combatant;

WHEREAS the United States maintains that Hamdi was affiliated with a Taliban military unit and is an enemy combatant for the reasons set forth in the Declaration of Michael Mobbs dated July 24, 2002;

WHEREAS Hamdi was born in Baton Rouge, Louisiana;

WHEREAS the question whether Hamdi has performed an expatriating act under Section 349(a) of the Immigration and Nationality Act, as amended (8 U.S.C. § 1481(a), hereinafter "Section 349(a)"), has not been adjudicated;

WHEREAS Hamdi considers himself to be a citizen of the Kingdom of Saudi Arabia;

WHEREAS Hamdi maintains that he never affiliated with or joined a Taliban military unit, never was an enemy combatant, that is, never was part of or supported forces hostile to the United States and, never engaged in armed conflict against the United States; and he also maintains he was never a member of nor affiliated with al Qaeda;

WHEREAS, in order to implement this Agreement, the United States has agreed and agrees to take all reasonable steps to secure whatever travel documents Hamdi may need to travel from the United States to the Kingdom of Saudi Arabia;

NOW THEREFORE, the parties have agreed to the release of Hamdi from United States custody in accordance with the following terms and conditions:

1. The United States agrees to release Hamdi from United States custody at the naval brig in Charleston, South Carolina (or any other brig or jail in which he is detained) after obtaining all necessary travel documents and country clearances for him to travel to the Kingdom of Saudi Arabia, but in any event no later than September 30, 2004. If, for reasons beyond the control of the Government of the United States, Hamdi cannot be transported to the Kingdom of Saudi Arabia on or before September 30, 2004, the United States shall not be in breach of this Agreement, provided Hamdi is transported to the Kingdom of Saudi Arabia as soon thereafter as it is within the power of the United States to do so. However, Hamdi may, in such event, seek relief concerning his conditions of confinement from the United States District Court in the Eastern District of Virginia while awaiting transport.

2. The United States agrees to transport Hamdi in civilian clothes and unhooded directly from the United States to the Kingdom of Saudi Arabia without unreasonable delay in route and without travel to Guantanamo Bay, Cuba; or to permit the Kingdom of Saudi Arabia to transport Hamdi to the Kingdom of Saudi Arabia, subject to security and logistical arrangements deemed appropriate by the United States.

3. Although the United States expressly retains the authority to share any information concerning Hamdi with the Saudi government, the United States agrees to make no request that Hamdi be detained by the Kingdom of Saudi Arabia based on information as to Hamdi's conduct known to the United States as of the official date of this Agreement. In the event the United States shares information with the Kingdom of Saudi Arabia pursuant to this paragraph, or if it is asked for guidance or information concerning Hamdi by the Kingdom of Saudi Arabia, it shall advise that considerations of United States national security do not require his detention in light of the terms of this Agreement.

4. Hamdi agrees that he will not engage in, assist in or conspire to commit any combatant activities or act in preparation thereof against the United States or its citizens, or against allies of the United States or citizens of such allies; and that he will not engage in, assist in or conspire to commit any acts of terrorism or knowingly harbor anyone who does.

5. In particular, Hamdi agrees not to aid, assist or in any way affiliate with the Taliban or any member of al Qaeda or any terrorist organization or terrorist so designated by the United States. (A list of designated terrorist organizations and designated terrorists shall be provided to Hamdi upon his request.)

6. Hamdi agrees to notify officials of the Kingdom of Saudi Arabia and the U.S. Embassy in Riyadh, Saudi Arabia, immediately if (a) he is solicited to engage in, assist in, or conspire to commit any combatant activities or to harbor anyone who does, (b) he comes into contact with any person known to him to be, or designated by the United States as, a terrorist, a terrorist organization, or a member affiliate of such terrorist organization, or (c) he becomes aware of any planned or executed acts of terrorism.

7. Hamdi hereby renounces terrorism and violent jihad.


8. Hamdi agrees to appear before a diplomatic or consular officer of the United States at the United States Embassy in Riyadh, Saudi Arabia, formally to renounce any claim that he may have to United States nationality pursuant to Section 349(a)(5). This provision is without prejudice to the right of the United States to determine that Hamdi lost United States nationality at an earlier time. Hamdi further agrees to so appear within seven (7) days of arriving in the Kingdom of Saudi Arabia pursuant to paragraphs 1 and 2 of this Agreement.

9. Hamdi agrees to remain and reside in the Kingdom of Saudi Arabia for a period of five (5) years from the official date of this Agreement without travel outside the Kingdom of Saudi Arabia.
10. Hamdi agrees never to travel to Afghanistan, Iraq, Israel, Pakistan, Syria, the West Bank, or the Gaza Strip. He further agrees not to travel to the United States for ten (10) years and, after that time, to receive the express permission of the Secretary of Defense or his designee and the Secretary of the Department of Homeland Security or his designee prior to initiating travel to the United States (in addition to applying for any and all necessary visas or travel documents).
11. For fifteen (15) years from the official date of this Agreement, Hamdi agrees to report to the United States Embassy (or any official of the Kingdom of Saudi Arabia so designated by the United States) any intent or plans to travel outside the Kingdom of Saudi Arabia at least thirty (30) days in advance of such proposed travel.
12. Hamdi agrees that if he does not fulfill any of the conditions of this Agreement, he may be detained immediately insofar as consistent with the law of armed conflict.
13. Except in case of breach of this Agreement by the United States, Hamdi hereby releases, waives, forfeits, relinquishes and forever discharges the United States, its departments, agencies, officers, employees, instrumentalities and agents, in their individual or official capacities, from any and all claims for any violation of United States, foreign, or international law arising from acts or omissions occurring prior to the official date of this Agreement, and from any and all challenges to the terms and conditions imposed by this Agreement. In the case of a breach of this Agreement by the United States, the United States agrees, as to any claim by Hamdi not barred by the applicable statute of limitations or laches as of the official date of this Agreement, to waive any defense based on the statute of limitations or laches.
14. Any and all disagreements or disputes arising under or relating to this Agreement shall be adjudicated in the U.S. District Court for the Eastern District of Virginia under United States law without reference to any conflict of law provisions.
15. The official date of this Agreement is the date on which it shall have been signed by all parties to the Agreement.
16. The parties agree to move jointly to stay all proceedings in the pending habeas case until September 30, 2004.
17. This Agreement constitutes the full and complete Agreement between the parties. Any modification to the Agreement must be in writing and signed by all parties to the Agreement.
18. Simultaneously with the execution of this Agreement, counsel for all parties will sign, and counsel for Hamdi shall retain, a Stipulation of Dismissal, in the form appended hereto as Exhibit

A ["the dismissal stipulation"] dismissing the action captioned as Yaser Esam Hamdi, Petitioner, versus Donald Rumsfeld, et al, Respondents, Case No. 2:02CV439 (E.D. Va.) with prejudice. Upon notification of counsel for Hamdi in writing of a date certain upon which Hamdi will be transported to Saudi Arabia, counsel for Petitioner Hamdi shall remit the dismissal stipulation to counsel for the United States. Immediately before release of Hamdi by the United States, whether upon arrival in Saudi Arabia or prior thereto, Hamdi shall notify his counsel that he is about to be released from United States custody in accordance with this Agreement and that he has returned to the Kingdom of Saudi Arabia or is about to be returned to the Kingdom of Saudi Arabia outside United States custody. Upon delivery of that notice to Hamdi's counsel, and upon release of Hamdi from United States custody, counsel for the United States may then cause the Stipulation of Dismissal to be filed.

Petitioner's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to this Agreement. I have read this Agreement and Exhibit A and have carefully reviewed every provision therein with my attorneys. I understand all the terms contained in this Agreement, including Exhibit A, and its effect on my claim to United States citizenship. I understand this Agreement and voluntarily agree to it.


Date: 9/15/2004



 Yaser Esam Hamdi
 Petitioner

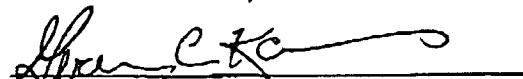
Petitioner's Counsel Signature: We are counsel for the Petitioner in this case. We have fully explained to the Petitioner his rights with respect to this Agreement. We have carefully reviewed every provision of this Agreement, including Exhibit A, with the Petitioner and have explained its effect on his claim to United States citizenship. To our knowledge, the Petitioner's decision to enter into this Agreement is an informed and voluntary one.

Date: 9/15/04



 Frank W. Dunham, Jr.


Date: 9/15/04



 Jeremy C. Kamens

For the United States of America:

Date: 9-17-04



 Ryan Henry, Principal Deputy Under
 Secretary of Defense for Policy

FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

YASER ESAM HAMDI,)	
)	
Petitioner,)	
)	
v.)	CASE NO. 2:02CV439
)	
DONALD RUMSFELD)	
Secretary of Defense)	
The Pentagon)	
Arlington, Va.,)	
)	
COMMANDER C.T. HANFT,)	
Commander, Consolidated Naval Brig)	
1050 Remount Road)	
Charleston, South Carolina,)	
)	
Respondents,)	

STIPULATION OF DISMISSAL

Petitioner Yaser Esam Hamdi, and Respondents, by undersigned counsel for all parties, stipulate that, pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, the above-captioned action is hereby dismissed in its entirety with prejudice as settled, and without costs, attorney's fees or expenses as against any party.

Dated: September __, 2004

Respectfully submitted,

Respondents:
Donald Rumsfeld
Commander C.T. Hanft
By counsel

Petitioner:
Yaser Esam Hamdi
By counsel

Frank W. Dunham, Jr., Esq.
Federal Public Defender for the
Eastern District of Virginia

EXHIBIT A

Jeremy C. Kamens
Assistant Federal Public Defender
1650 King Street, Suite 500
Alexandria, Virginia 22314
Phone: (703) 600-0800
Fax: (703) 600-0880