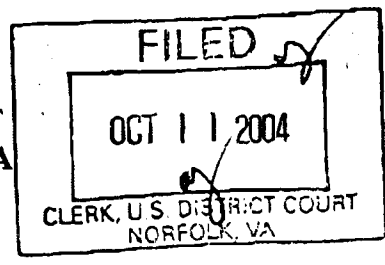


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION



**YASER ESAM HAMDI,**

**Petitioner,**

**v.**

**CIVIL ACTION NO. 2:02cv439**

**DONALD RUMSFELD**

**and**

**COMMANDER C.T. HANFT,**

**Respondents.**

**ORDER**

On October 5, 2004 this Court set a hearing on the merits of Petitioner Yaser Esam Hamdi's petition for a writ of habeas corpus for Tuesday, October 12, 2004 at 10:00 a.m if he was not released from custody prior to Friday, October 8, 2004 at 12:00 p.m. (Noon) Eastern Standard Time. In the event that Petitioner Hamdi was not released by that time, the Court further ordered Respondents to submit, under seal, copies of documents on which it would rely in its case-in-chief against Petitioner Hamdi for perusal by the Judge of this Court and Petitioner Hamdi's attorney, Federal Public Defender Frank W. Dunham and his duly authorized associate attorneys only, by 2:00 p.m. on Friday, October 8, 2004. The October 5, 2004 Order was to remain under seal until 12:00 p.m. (Noon) Eastern Standard Time on Friday, October 8, 2004.

Prior to Noon Eastern Standard Time on Friday, October 8, 2004, the Court held a status conference with counsel for both parties. The parties informed the Court that Petitioner Hamdi would not be released by Noon on that day and jointly asked this Court to keep the October 5, 2004 Order under seal until today, October 11, 2004, so that they could continue to work towards

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Petitioner Hamdi's immediate release. Respondents also sought a continuance of the hearing set for October 12, 2004. The Court agreed to keep the Order under seal until 4:00 p.m. that day while it considered the requests.

Later that same day, October 8, 2004, Respondents complied with the portion of the October 5, 2004 Order requiring that they submit to the Judge of this Court and Federal Public Defender Frank W. Dunham, under seal, the documents on which they would rely in their case-in-chief, mainly all statements of the Petitioner. Those documents, which were classified as secret, were to be returned immediately to security officers of the United States Department of Justice after perusal by the Court and attorneys for Petitioner Hamdi. In a status conference following the submission of those documents, the Court indicated to the parties that it would consider continuing the hearing in this matter if Petitioner Hamdi were released and in Saudi Arabia by today, Monday, October 11, 2004. The Court ordered that the October 5, 2004 Order, and any subsequent orders, remain under seal until this day. However, the Court, at that time, refused to continue the hearing set for October 12, 2004.

Today, on October 11, 2004 at 2:00 p.m., the Court held another status conference by telephone with counsel for Respondents, David B. Salmons, Assistant to the Solicitor General of the United States, and counsel for Petitioner, Federal Public Defender Frank W. Dunham. During that status conference, counsel for both parties assured the Court that Petitioner Hamdi was released and arrived in Riyadh, Saudi Arabia on Monday, October 11, 2004. Federal Public Defender Frank W. Dunham informed the Court that he in fact spoke with Petitioner Hamdi upon his arrival in Saudi Arabia.

Accordingly, pursuant to the status conference held this day with counsel for both parties, and upon assurances from his attorney that Petitioner Hamdi so desires, the Court hereby

**DISMISSES** the petition, but **RETAINS** jurisdiction to enforce the terms of any valid settlement agreement. Of course, the hearing set for tomorrow, October 12, 2004 at 10:00 a.m. is **CANCELLED**, as the matter is dismissed. Furthermore, the Court **DIRECTS** the Clerk of the Court to unseal the Court's prior orders, transcripts, and any submissions to the Court, except insofar as those submissions are classified as secret and which were returned to security officers for the United States Department of Justice after perusal by the Judge of this Court and attorneys for the Petitioner.

The Clerk of the Court is **DIRECTED** to transmit this Order via facsimile and U.S. mail to all counsel of record.

**IT IS SO ORDERED.**

/S/ Robert G. Doumar

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

October <sup>11</sup> 11, 2004