

**FILED**

**APR - 5 2004**

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**NIZAR SASSI,**  
 Detainee, Camp Delta;  
  
**SASSI SASSI,**  
 as Next Friend of Nizar Sassi;  
  
**RIDOUANE KHALID,**  
 Detainee, Camp Delta;  
  
**MOHAMMED KHALID,**  
 as Next Friend of Ridouane Khalid;  
  
**OMAR KHADR,**  
 Detainee, Camp Delta; and  
  
**FATMAH ELSAMNAH,**  
 as Next Friend of Omar Khadr;  
  
 Petitioners,

v.

**GEORGE WALKER BUSH,**  
 President of the United States  
 The White House  
 1600 Pennsylvania Ave., N.W.  
 Washington, D.C. 20500;  
  
**DONALD RUMSFELD,**  
 Secretary, United States  
 Department of Defense  
 1000 Defense Pentagon  
 Washington, D.C. 20301-1000;  
  
**ARMY BRIG. GEN. JAY HOOD,**  
 Commander, Joint Task Force - GTMO  
 Guantánamo Bay Naval Station  
 Guantánamo Bay, Cuba; and  
  
**ARMY COL. NELSON J. CANNON,**  
 Commander, Camp Delta,  
 Guantánamo Bay Naval Station  
 Guantánamo Bay, Cuba;

**PETITION FOR WRIT  
OF HABEAS CORPUS**

No.

CASE NUMBER 1:04CV00547

JUDGE: Colleen Kollar-Kotelly

DECK TYPE: Habeas Corpus/2255

DATE STAMP: 04/05/2004

**Respondents,  
All sued in their official  
and individual capacities.**

)  
)  
)  
)  
)

**PETITION FOR WRIT OF HABEAS CORPUS**

1. Petitioners Nizar Sassi, Ridouane Khalid, and Omar Khadr seek the Great Writ. They act on their own behalf and through their Next Friends, Mr. Sassi Sassi (father), and Mr. Mohammed Khalid (brother), and Ms. Fatmah Elsannah (grandmother) respectively. Petitioners Nizar Sassi and Ridouane Khalid are citizens of France. Petitioner Omar Khadr is a Canadian citizen. They are being held virtually *incommunicado* in Respondents' unlawful custody.

**JURISDICTION**

2. Petitioners bring this action under 28 U.S.C. §§2241 and 2242, and invoke this Court's jurisdiction under 28 U.S.C. §§1331, 1651, 2201, and 2202; 5 U.S.C. §702; as well as the Fifth, Sixth, and Eighth Amendments to the United States Constitution, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, and customary international law. Because they seek declaratory relief, Petitioners also rely on F. R. Civ. P. 57.
3. This Court is empowered under 28 U.S.C. §2241 to grant the Writ of Habeas Corpus, and to entertain the Petition filed by Sassi Sassi, Mohammed Khalid, and Fatmah Elsannah as Next Friends under 28 U.S.C. §2242. This Court is further empowered to declare the rights and other legal relations of the parties herein by 28 U.S.C. §2201, and to effectuate and enforce declaratory relief by all necessary and proper means by 28 U.S.C. §2202, as this case involves an actual controversy within the Court's jurisdiction.

**II**  
**VENUE**

4. Venue is proper in the United States District Court for the District of Columbia, since at least one respondent resides in the district, a substantial part of the events or omissions giving rise to the claim occurred in the district, at least one respondent may be found in the district, and all respondents are either officers or employees of the United States or any agency thereof acting in their official capacities. 28 U.S.C. §§ 1391(b); 1391(e).

**III**  
**PARTIES**

5. Petitioner Nizar Sassi is a French citizen presently incarcerated and held in respondents' unlawful custody in Camp Delta, Guantánamo. *See Exhibit A, Affidavit of Sassi Sassi and attachments exhibited thereto, incorporated by reference herein.*
6. Petitioner Sassi Sassi is Nizar's father. Sassi Sassi has received letters from his son, delivered through the International Committee of the Red Cross, in which he has expressed concern about his detention at Guantánamo. Because his son cannot secure access either to legal counsel or the courts of the United States, Sassi Sassi acts as Next Friend. *See Exhibit A, Affidavit of Sassi Sassi.*
7. Through counsel, Jacques Debray, Sassi Sassi has tried repeatedly to contact his son, to learn more about his condition and status and to gain access to him. The United States has either rebuffed or ignored counsel's requests. *See Exhibit B, Affidavit of Jacques Debray, French Counsel for Petitioners Nizar Sassi and Sassi Sassi and attachments exhibited thereto, incorporated by reference herein.*
8. On March 19, 2002, Mr. Debray wrote to Howard Leach, the United States Ambassador to France, to ask for information on the circumstances of Nizar's arrest, his conditions of detention and his legal status and to request access to his client. Although counsel was informed that the letter had been transmitted to the United States Departments of State and Justice, no reply was ever received. On March 29, 2002, counsel sent a second letter reiterating

- the requests made in the March 19, 2002, letter. No response was received to this letter. In December of 2002, counsel sent a number of letters to the American Ambassador seeking access to all French nationals, including Nizar, detained at Guantánamo and inquiring as to their legal status.
9. On November 4, 2002, February 17, 2003, and again on May 13, 2003, counsel wrote to the French Minister for Justice requesting that the Minister furnish information on the circumstances of all French nationals detained by the United States, including Nizar. In the letter of May 13, counsel also requested that the Minister arrange a meeting with the families of the French detainees and their legal counsel. Counsel did not receive any response to these letters.
  10. On December 11, 2002, Mr. Paul-Albert Iweins, Barrister and Solicitor of the Paris Court of Appeal and then President of the Paris Bar, formally consented to represent the interests of Nizar Sassi. On or around this time, Mr. Iweins sent a number of letters to the American Ambassador seeking access to all French nationals detained at Guantánamo, including Nizar. In this letter he also sought information on their legal status.
  11. On August 25, 2003, Mr. Iweins received a response to one of his letters (dated July 31, 2003). The letter, signed by Mr. Alejandro Wolff in the absence of Ambassador Leach, states that all persons detained at Guantánamo are "enemy combatants" who are "being held in accordance with the laws and customs of war, which permit the United States to hold enemy combatants at least for the duration of hostilities." It also states that the United States will not comment on the specific circumstances surrounding the capture or transfer of any person detained at Guantánamo. In regard to counsel's request to visit the French detainees, the letter states that "[c]onsular, family and attorney visits are not permitted," and that as an enemy combatant, Nizar would "have no right of access to counsel or the courts to challenge [his] detention." See Exhibit B, Affidavit of Jacques Debray.
  12. Petitioner Ridouane Khalid is a French citizen presently incarcerated and held in Respondents' unlawful custody at Camp Delta, Guantánamo. See Exhibit C, Affidavit of Mohammed Khalid,

- and attachments exhibited thereto, incorporated by reference herein.
13. Petitioner Mohammed Khalid is Ridouane's brother. He too is a French citizen. Mohammed Khalid has received letters from his brother, delivered through the ICRC, in which he has expressed concern about his detention at Guantánamo. Because his brother cannot secure access either to legal counsel or the courts of the United States, Mohammed Khalid acts as Next Friend. *See Exhibit C, Affidavit of Mohammed Khalid.*
  14. Through counsel, Mohammed Khalid has tried repeatedly to contact his brother, to learn more about his condition and status and to gain access to him. The United States has either rebuffed or ignored counsel's requests. *See Exhibit D, Affidavit of Paul-Albert Iweins, French Counsel for Petitioner Ridouane Khalid and Mohammed Khalid, and attachments exhibited thereto, incorporated by reference herein.*
  15. On July 31, 2003, counsel for Petitioners Ridouane and Mohammed Khalid sent a letter to Howard Leach, Ambassador of the United States to France, requesting that he be permitted legal access to Ridouane Khalid. In regard to counsel's request to visit Ridouane, Mr. Wolff, responding for the Ambassador, wrote that "[c]onsular, family and attorney visits .... are not permitted." He also stated that as an enemy combatant, Ridouane would "have no right of access to counsel or the courts to challenge [his] detention." *See Exhibit D, Affidavit of Paul-Albert Iweins.*
  16. Petitioner Omar Khadr is a Canadian citizen presently incarcerated and held in Respondents' unlawful custody at Camp Delta, Guantánamo. *See Exhibit E, Affidavit of Fatmah Elsannah.*
  17. Petitioner Fatmah Elsannah is Omar's grandmother. She has received several messages from her grandson expressing concern over his detention. Because her grandson cannot secure access either to legal counsel or to the courts of the United States, Fatmah Elsannah acts as his Next Friend. *See Exhibit E, Affidavit of Fatmah Elsannah.*
  18. On her own and through Canadian Counsel, Nathan Whitling, Fatmah Elsannah has tried repeatedly to contact her grandson, to learn more about his condition and status and to gain access to him. The United States has either rebuffed or ignored counsel's requests. The United

States has provided no information either to Ms. Elsamnah or to Canadian Counsel regarding their requests for access to Omar, the date and circumstances of Omar's arrest or the specific reasons for his continued detention at Guantánamo. See Exhibit F, Affidavit of Nathan Whitting, Canadian Counsel for Petitioners Omar Kadhr and Fatmah Elsamnah and attachments thereto.

19. Respondent Bush is the President of the United States and Commander in Chief of the United States Military. It is pursuant to the Military Order promulgated by him or alternatively, under his authority as Commander in Chief and under the laws and usages of war that Mr. Sassi, Mr. Khalid, and Mr. Khadr are being detained. Accordingly, Respondent Bush is ultimately responsible for Petitioners' unlawful detention.
20. Respondent Rumsfeld is the Secretary of the United States Department of Defense. Pursuant to either the November 13, 2001 Military Order or the President's authority as Commander in Chief and under the laws and usages of war, Respondent Rumsfeld has been charged with maintaining the custody and control of the detained Petitioners. He is sued in his official capacity.
21. Respondent Hood is the Commander of Joint Task Force-GTMO, the task force running the detention operation at Guantánamo. He has supervisory responsibility for the detained Petitioners and is sued in his official and personal capacities.
22. Respondent Cannon is the Commander of Camp Delta, the U.S. facility where the detained Petitioners are presently held. He is the immediate custodian responsible for their detention, and is sued in his official capacity.

#### IV STATEMENT OF FACTS

23. The detained Petitioners are not, nor have they ever been, enemy aliens, lawful or unlawful belligerents, or combatants of any kind.
24. Petitioner Nizar Sassi is a French citizen in Respondents' unlawful custody. On June 22, 2001, Nizar departed for Pakistan in order to learn more about his Muslim faith. He left with a

number of other French nationals who were travelling to Pakistan for the same purpose. Nizar did not intend to stay long in Pakistan; his plan was to spend two months and thereafter return to work in France. In January 2002, Nizar's family learned from the French media that Nizar was in the custody of the U.S. Military in Guantánamo. This was confirmed by the French Ministry of Foreign Affairs in April 2002. Petitioners' parents learned at this meeting that Nizar had been initially arrested in Khandáhar, Afghanistan, turned over to the custody of the U.S. Military, and transported to Guantánamo. Nizar has been held in United States custody at Guantánamo since January 2002. *See Exhibit B, Affidavit of Jacques Debray.*

25. In the wake of the September 11, 2001 attacks on the United States, the United States, at the direction of Respondent Bush, began a massive military campaign against the Taliban government, then in power in Afghanistan. On September 18, 2001, a Joint Resolution of Congress authorized the President to use force against the "nations, organizations, or persons" that "planned, authorized, committed, or aided the terrorist attacks on September 11, 2001, or [that] harbored such organizations or persons." Joint Resolution 23, Authorization for Use of Military Force, Public Law 107-40, 115 Stat. 224 (Jan. 18, 2001). The Resolution did not authorize the indefinite detention of persons seized on the field of battle.
26. At the time of his detention, Mr. Sassi was not a member of either the Taliban government armed forces or al Qaeda. He did not cause or attempt to cause any harm to American personnel or property prior to his capture.
27. Petitioner Ridouane Khalid is a French citizen in Respondents' unlawful custody. In August 2001, Ridouane travelled to Pakistan for an intensive course in the Arabic language. Because it is possible to learn Arabic in an intensive program over several months in Pakistan, Ridouane intended that his stay in Pakistan would be a brief one. Ridouane went to language school when he arrived in Pakistan. He was arrested and detained there, but his family does not know by whom or why. At some point after his arrest, Ridouane came into the custody of agents of the United States government. Ridouane's parents first heard of his arrest in late 2001, when two French government officials called to advise them of the fact that their son was being held

- by the United States military. In early 2002, Ridouane's family learned that the United States military was holding him at Guantánamo. Ridouane has been held in United States custody at Guantánamo since that time. *See Exhibit C, Affidavit of Mohammed Khalid.*
28. At the time of his detention, Mr. Khalid was not a member of either the Taliban government armed forces or al Qaeda. He did not cause or attempt to cause any harm to American personnel or property prior to his capture. Mr. Khalid was not in Afghanistan at the time of his detention, but was taken into custody in Pakistan.
29. Petitioner Omar Khadr is a Canadian citizen in Respondents' unlawful custody. When he was 10 years old, Omar moved with his family from Pakistan to Kabul, Afghanistan so that his father could seek employment there. In November 2001, in order to avoid the bombing that was taking place in Kabul, Omar's father directed Omar and his brother to move their belongings to an orphanage outside of the city. During this time, Omar and his brother were separated. Omar's family learned in late 2002 that he had been arrested on July 27, 2002, when he was just 15 years old. They learned that Omar had been transferred to the custody of the U.S. Military and transported to Guantánamo in the late fall of 2002. *See Exhibit E, Affidavit of Fatmah Elsamnah.* Omar has been held in United States custody at Guantánamo since that time. *See Exhibit E, Affidavit of Fatmah Elsamnah.*
30. At the time of his detention, Mr. Khadr was not a member of either the Taliban government armed forces or al Qaeda.. He did not cause or attempt to cause any harm to American personnel or property prior to his capture.
31. The detained Petitioners are not, and have never been, members of Al Qaeda or any other terrorist group. Prior to their detention, they did not commit any violent act against any American person or espouse any violent act against any American person or property. Nor were they involved in the ensuing armed conflict. They had no involvement, direct or indirect, in either the terrorist attacks on the United States on September 11, 2001, or any act of international terrorism attributed by the United States to Al Qaeda or any terrorist group. They are not properly subject to the detention Order issued by the President. As they did not



- participate in the armed conflict at any point in time, they are not properly subject to the Executives's authority as Commander in Chief and under the laws and usages of war.
32. The detained Petitioners have had no military or terrorist training. They at no time voluntarily joined any terrorist force.
  33. The detained Petitioners were not initially taken into custody by American forces. They were taken into custody against their will and handed over to the Americans. There did not engage in combat against American forces.
  34. The detained Petitioners promptly identified themselves by their correct names and nationality to the United States. They requested that the United States provide them with access to their families and to legal counsel. The detained Petitioners were kept blindfolded against their will for lengthy periods while being taken involuntarily to Guantánamo. In the course of being taken to Guantánamo, the detained Petitioners believe they were transported via other American territory. The detained Petitioners have been forced to provide involuntary statements to Respondents' agents at Guantánamo.
  35. The detained Petitioners have been held under conditions that violate their international and constitutional rights to dignity and freedom from cruel, unusual and degrading treatment or punishment. They have been housed throughout their detention in accommodation that fails to satisfy both domestic and internationally accepted standards of accommodation for any person subject to detention. They were initially forced to use a bucket for a toilet, and were not provided with basic hygienic facilities. They have been refused meaningful access to their families. They have not been provided with the opportunity fully to exercise their religious beliefs. They have been exposed to the indignity and humiliation of the cameras of the national and international press, brought to Guantánamo with the express consent and control of Respondents.

#### **The Detention Order**

36. On November 13, 2001, Respondent Bush issued a Military Order authorizing indefinite

detention without due process of law. The Order authorizes Respondent Rumsfeld to detain anyone Respondent Bush has "reason to believe":

- i. is or was a member of the organization known as al Qaida;
- ii. has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or
- iii. has knowingly harbored one or more individuals described in subparagraphs (i) and (ii).

*See* Exhibit G, Military Order of November 13, 2001. President Bush must make this determination in writing. The Order was neither authorized nor directed by Congress, and is beyond the scope of the Joint Resolution of September 18, 2001.

37. The Military Order vests the President with complete discretion to identify the individuals that fall within its scope. It establishes no standards governing the use of his discretion. Once a person has been detained, the Order contains no provision for the person to be notified of the charges he may face. On the contrary, the Order authorizes detainees to be held without charges. It contains no provision for detainees to be notified of their rights under domestic and international law, and provides neither the right to counsel, nor the right to consular access. It provides no right to appear before a neutral tribunal to review the legality of a detainee's continued detention and no provision for appeal to an Article III court. In fact, the Order expressly bars review by any court. The Order authorizes indefinite and unreviewable detention, based on nothing more than the President's written determination that an individual is subject to its terms.
38. The Military Order was promulgated in the United States and in this judicial district, the decision to detain Petitioners was made by Respondents in the United States and in this judicial district, the decision to detain Petitioners at Guantánamo was made in the United States and in this judicial district, and the decision to continue detaining the Petitioners was, and is, being made by Respondents in the United States and in this judicial district.

39. Respondent Bush has never certified or determined in any manner, in writing or otherwise, that the detained Petitioners are subject to this detention order.
40. The detained Petitioners are not properly subject to this detention order.
41. In the related case of *Rasul v. Bush*, 215 F. Supp. 2d 55 (D.D.C. 2002) respondents contended that the petitioners in that case are being detained not pursuant to the President's Military Order but rather under the President's authority as Commander in Chief and under the laws and usages of war. However, Petitioners in this matter were not arrested or detained by the United States in the course of the armed conflict.
42. All of the detained Petitioners, with the exception of Petitioner Omar Khadr, were detained by Pakistani not United States authorities and were arrested by them not in Afghanistan, but Pakistan, nowhere near the battlefield. Accordingly, Petitioners are not properly detained under the President's authority as Commander in Chief and under the laws and usages of war.

#### **Guantánamo Bay Naval Station**

43. On or about January 11, 2002, the United States military began transporting prisoners captured in Afghanistan to Camp X-Ray, at the United States Naval Base, in Guantánamo Bay, Cuba. In April 2002, all prisoners were transferred to a more permanent prison facility in Guantánamo, Camp Delta. Guantánamo is a self-sufficient and essentially permanent city with approximately 7,000 military and civilian residents under the complete jurisdiction and control of the United States. Guantánamo occupies nearly thirty-one square miles of land, an area larger than Manhattan, and nearly half the size of the District of Columbia. It has its own schools, generates its own power, provides its own internal transportation, and supplies its own water. Offenses committed by both civilians and foreign nationals living on Guantánamo are brought before federal courts on the mainland, where respondents enjoy the full panoply of Constitutional rights.
44. The United States has occupied Guantánamo since 1903, and has repeatedly declared its intention to remain there indefinitely. For several decades, the United States has resisted claims of national sovereignty made by Cuba over Guantánamo, insisting that its occupation of

- the land is legal and will remain so in perpetuity, so long as the United States chooses to exercise dominion and control over the land. The area is now, and has been for many years, under exclusive United States jurisdiction.
45. On or about January 11, 2002, the precise date unknown to counsel but known to Respondents, the United States military transferred the detained Petitioners to Guantánamo, where they have been held ever since, in the custody of Respondents Bush, Rumsfeld, Hood, and Cannon.
46. Since gaining control of the detained Petitioners, the United States military has held them virtually *incommunicado*. They have been or will be interrogated repeatedly by agents of the United States Departments of Defense and Justice, though they have not been charged with an offense, nor have they been notified of any pending or contemplated charges. They have made no appearance before either a military or civilian tribunal of any sort, nor have they been provided counsel or the means to contact counsel. They have not been informed of their rights under the United States Constitution, the regulations of the United States Military, the Geneva Convention, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, or customary international law. Indeed, Respondents have taken the position that they should not be told of these rights. As a result, the detained Petitioners are completely unable either to protect, or to vindicate their rights under domestic and international law.
47. In published statements, Respondents Bush, Rumsfeld, and officers Lehnert and Carrico who preceded Hood and Cannon in their respective positions, indicated the United States may hold the detained Petitioners under these conditions indefinitely. *See, e.g.,* Roland Watson, THE TIMES (LONDON), Jan. 18, 2002 (“Donald Rumsfeld, the U.S. Defence Secretary, suggested last night that al-Qaeda prisoners could be held indefinitely at the base. He said that the detention of some would be open-ended as the United States tried to build a case against them.”); Lynne Sladky, ASSOC. PRESS, Jan. 22, 2002 (“Marine Brig. Gen. Mike Lehnert, who is in charge of the detention mission, defended the temporary cells where detainees are being held... ‘We have to look at Camp X-ray as a work in progress...,’ Lehnert told CNN. ... Lehnert said plans are

to build a more permanent prison 'exactly in accordance with federal prison standards'); John Mintz, The WASH. Post, *Extended Detention In Cuba Mullied*, Feb. 13, 2002 ("As the Bush administration nears completion of new rules for conducting military trials of foreign detainees, U.S. officials say they envision the naval base at Guantánamo Bay, Cuba, as a site for the tribunals and as a terrorist penal colony for many years to come.").<sup>1</sup>

V  
CAUSES OF ACTION

FIRST CLAIM FOR RELIEF  
(DUE PROCESS – FIFTH AMENDMENT  
TO THE UNITED STATES CONSTITUTION)

48. Petitioners incorporate paragraphs 1 - 47 by reference.
49. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the Fifth Amendment to the United States Constitution. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of individuals, without Due Process of Law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of the Fifth Amendment, since they act at the President's direction. On its face, the Executive Order violates the Fifth Amendment.

SECOND CLAIM FOR RELIEF  
(DUE PROCESS – FIFTH AMENDMENT  
TO THE UNITED STATES CONSTITUTION)

50. Petitioners incorporate paragraphs 1 - 49 by reference.
51. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution. The Executive Order, as applied to Petitioners, violates the Fifth

---

<sup>1</sup> See also TIME MAG., *Welcome to Camp X-Ray*, Feb. 3, 2002:

More curious still is the matter of the prisoners' ultimate fate. Rumsfeld has laid out four options: a military trial, a trial in U.S. criminal courts, return to their home countries for prosecution, or continued detention 'while additional intelligence is gathered.' The last seems a distinct possibility; the Pentagon plans to build 2,000 cells at Camp X-Ray.

Amendment.

THIRD CLAIM FOR RELIEF  
(DUE PROCESS – INTERNATIONAL LAW)

52. Petitioners incorporate paragraphs 1 - 51 by reference.
53. By the actions described above, Respondents, acting under color of law, have violated and continue to violate customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the American Declaration on the Rights and Duties of Man. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of Petitioners, without legal process, in violation of binding obligations of the United States under international law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of international law, since they act at the President's direction. On its face, the Executive Order violates international law.

FOURTH CLAIM FOR RELIEF  
(DUE PROCESS – INTERNATIONAL LAW)

54. Petitioners incorporate paragraphs 1 - 53 by reference.
55. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the American Declaration on the Rights and Duties of Man. The Executive Order, as applied to the detained Petitioners, violates these and other binding obligations of the United States under International Law.

FIFTH CLAIM FOR RELIEF  
(DUE PROCESS – FAILURE TO COMPLY  
WITH U.S. MILITARY REGULATIONS AND  
INTERNATIONAL HUMANITARIAN LAW)

56. Petitioners incorporate paragraphs 1 - 55 by reference.

57. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the rights accorded to persons seized by the United States Military in times of armed conflict, as established by, *inter alia*, the regulations of the United States Military, Articles 4 and 5 of Geneva Convention III, Geneva Convention IV, and customary international law.

SIXTH CLAIM FOR RELIEF  
(WAR POWERS CLAUSE)

58. Petitioners incorporate paragraphs 1 - 57 by reference.

59. By the actions described above, Respondents, acting under color of law, have exceeded the constitutional authority of the Executive and have violated and continue to violate the War Powers Clause by ordering the prolonged and indefinite detention of the detained Petitioners without Congressional authorization.

SEVENTH CLAIM FOR RELIEF  
(SUSPENSION OF THE WRIT)

60. Petitioners incorporate paragraphs 1 - 59 by reference.

61. To the extent the order of November 13, 2001, disallows any challenge to the legality of the Petitioners' detention by way of habeas corpus, the Order and its enforcement constitute an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution.

**VI**  
**PRAYER FOR RELIEF**

WHEREFORE, Petitioners pray for relief as follows:

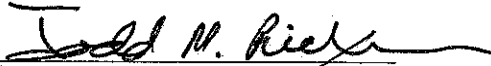
1. Grant Petitioner Sassi Sassi Next Friend status, as Next Friend of Nizar Sassi;
2. Grant Petitioner Mohammed Khalid Next Friend status, as Next Friend of Ridouane Khalid;
3. Grant Petitioner Fatmah Elsamnah Next Friend status, as Next Friend of Omar Khadr;
4. Order the detained Petitioners released from Respondents' unlawful custody;
5. Order Respondents to allow counsel to meet and confer with the detained Petitioners, in private and unmonitored attorney-client conversations;
6. Order Respondents to cease all interrogations of the detained Petitioners, direct or indirect,

- while this litigation is pending;
7. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Fifth and Fourteenth Amendments to the United States Constitution;
  8. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Administrative Procedures Act, 5 U.S.C. § 702;
  9. Order and declare that the detained Petitioners are being held in violation of the Fifth and Fourteenth Amendments to the United States Constitution;
  10. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
  11. Order and declare that the detained Petitioners are being held in violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
  12. Order and declare that the detained Petitioners are being held in violation of the regulations of the United States Military, the Geneva Conventions, and international humanitarian law;
  13. Order and declare that the Executive Order of November 13, 2001, violates the War Powers Clause;
  14. Order and declare that the provision of the Executive Order that bars the detained Petitioners from seeking relief in this Court is an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution;
  15. To the extent Respondents contest any material factual allegations in this Petition, schedule an evidentiary hearing, at which Petitioners may adduce proof in support of their allegations; and
  16. Grant such other relief as the Court may deem necessary and appropriate to protect Petitioners' rights under the United States Constitution and international law.



Respectfully submitted,

Counsel for Petitioners:



Todd M. Richman\*  
U.S. District Court for the  
District of Columbia Bar No. 462829  
Nixon Peabody LLP  
Suite 900  
401 9th Street NW  
Washington, DC 20004-2128  
(202) 585-8000  
(202) 585-8080 (FAX)

Joseph Margulies  
Minnesota Bar No. 208528  
MARGULIES & RICHMAN, PLC  
2520 Park Avenue, South  
Minneapolis, MN 55404  
(612) 872-4900; (612) 872-4967 (FAX)

Michael Ratner  
Barbara Olshansky  
CENTER FOR CONSTITUTIONAL RIGHTS  
666 Broadway, 7<sup>th</sup> Floor  
New York, New York 10012  
(212) 243 3805; (212) 614-6499 (FAX)

MacArthur Justice Center  
UNIVERSITY OF CHICAGO LAW SCHOOL  
1111 East 60<sup>th</sup> Street  
Chicago, Illinois 60637  
(773) 702-9560

John J. Gibbons  
Gitanjali S. Gutierrez  
GIBBONS, DEL DEO, DOLAN, GRIFFINGER  
& VECCHIONE, P.C.  
Newark, New Jersey 07102  
(973) 596-4700

*Counsel for Petitioners*


\* Mr. Richman appears as local counsel for all attorneys.

Dated: Washington, DC  
April 5, 2004

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 5<sup>th</sup> day of April, 2004.

  
\_\_\_\_\_  
Todd M. Richman

## **EXHIBITS**

- A.** Affidavit of Sassi Sassi, March 6, 2004.
- B.** Affidavit of Solicitor Jacques Debray, French Counsel for Petitioners Nizar Sassi and Sassi Sassi, and Attachments, March 10, 2004.
- C.** Affidavit of Mohammed Khalid and Attachments, January 12, 2004.
- D.** Affidavit of Paul-Albert Iweins, French Counsel for Petitioner Ridouane Khalid and Mohammed Khalid, and Attachments, January 12, 2004.
- E.** Affidavit of Fatmah Elsannah, March 10, 2004.
- F.** Affidavit of Nathan Whitting, Canadian Counsel for Petitioners Omar Kadhr and Fatmah Elsannah, and Attachments, March 10, 2004.
- G.** Copy of Authorisation Signed by Sassi Sassi, March 3, 2003.
- H.** Copy Authorisation Signed by Mohammed Khalid, January 12, 2004.
- I.** Copy of Authorisation Signed by Fatmah Elsannah, January 15, 2004.