

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

Lieutenant Commander CHARLES SWIFT, a  
resident of the State of Washington, as next of  
friend for SALIM AHMED HAMDAN,  
Military Commission Detainee  
Camp Echo,  
Guantanamo Bay Naval Base,  
Guantanamo Bay, Cuba,

Petitioner,

v.

DONALD H. RUMSFELD, United States  
Secretary of Defense; JOHN D. ALTENBURG,  
JR., Appointing Authority of Military  
Commissions, Department of Defense;  
Brigadier General THOMAS L.  
HEMINGWAY, Legal Advisor to the  
Appointing Authority for Military  
Commissions; Brigadier General JAY HOOD,  
Commander Joint Task Force, Guantanamo,  
Camp Echo, Guantanamo Bay, Cuba; and  
GEORGE W. BUSH, President of the United  
States,

Respondents.

NO. CV04-0777L

MOTION OF ARTHUR R. MILLER  
AS AMICUS CURIAE FOR LEAVE  
TO FILE OPPOSITION TO  
RESPONDENTS' MOTION TO  
DISMISS OR TRANSFER

**NOTE FOR MOTION  
CALENDAR (UNOPPOSED):  
July 27, 2004**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45

## I. PRELIMINARY STATEMENT

Amicus Curiae, Arthur R. Miller, is a professor of law who has devoted his entire career to the study and explication of federal civil procedure. Respondents' Motion to Dismiss or Transfer raises important questions about mandamus jurisdiction, next-friend standing, and habeas venue. These issues are of significant public importance.

The undersigned counsel is authorized by Respondents to represent to the Court that Petitioner consents and Respondents do not object to this motion.

## II. ARGUMENT

It is in the sound discretion of this Court to allow amicus curiae participation in matters of broad public interest. See, e.g., Greenpeace v. National Marine Fisheries Service, 55 F. Supp. 2d 1248 (W.D. Wa. 1999). Amicus curiae status in federal district court is proper when the person "is an impartial individual who suggests the interpretation and status of the law, gives information concerning it, and whose function is to advise in order that justice may be done, rather than to advocate a point of view so that a cause may be won by one party or another." Leigh v. Engle, 535 F. Supp. 418, 420 (N.D. Ill. 1982). Here, Professor Miller is impartial; he is only interested in proper resolution of the issues before the Court.

## III. CONCLUSION

Therefore, the Court should grant Amicus Curiae's Motion for Leave to File the accompanying Memorandum of Arthur R. Miller as Amicus Curiae in Opposition to Respondents' Motion to Dismiss or Transfer.

1 DATED this 23<sup>rd</sup> day of July, 2004.  
2

3 David H. Remes  
4 **COVINGTON & BURLING**  
5 1201 Pennsylvania Ave., N.W.  
6 Washington, D.C. 20004  
7 202-662-5212  
8

9 **GORDON MURRAY TILDEN LLP**  
10

11 By \_\_\_\_\_  
12

13 ~~James R. Murray, WSBA #25263~~  
14

15 Attorneys for Amicus Curiae Arthur R. Miller  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45

**CERTIFICATE OF SERVICE**

I hereby certify that on July 23, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Harry H. Schneider, Jr.  
Perkins Coie LLP  
1201 Third Avenue, 40<sup>th</sup> Floor  
Seattle, WA 98101  
Attorneys for Petitioner  
HSchneider@perkinscoie.com

Mr. John McKay  
Brian C. Kipnis  
U.S. Attorney's Office  
601 Union Street, Suite 5100  
Seattle, WA 98101

  
\_\_\_\_\_  
James R. Murray, WSBA #25263  
Gordon Murray Tilden LLP  
1001 Fourth Avenue, Suite 4000  
Seattle, WA 98154-1007  
Telephone: 206-467-6477  
Facsimile: 206-467-6292  
E-mail: jmurray@gmt.law