

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

IBRAHIM OSMAN IBRAHIM IDRIS,  
Detainee, Guantanamo Bay Naval Station,

MOHAMMED IDRIS,  
Next Friend,

Petitioners,

v.

BARACK H. OBAMA,  
President of the United States, et al.,

Respondents.

Civil Action No. 1:05-cv-1555 (RCL)

**RESPONDENTS' RESPONSE TO  
PETITIONER'S MOTION FOR JUDGMENT ON HIS PETITION FOR A WRIT  
OF HABEAS CORPUS**

Respondents respectfully submit this response to Petitioner's Motion for Judgment on His Petition for a Writ of Habeas Corpus ("Petitioner's Motion"). Dkt. No. 270.<sup>1</sup> As explained below, Respondents hereby withdraw their reliance upon the amended factual return that they have filed in this case in response to the Petition for a Writ of Habeas Corpus, and, accordingly, Respondents do not oppose the Court's issuance of the writ of habeas corpus. A proposed order is submitted herewith.

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<sup>1</sup> On July 15, 2013, the due date for Respondents to file their response pursuant to the Local Rules, Respondents moved for an extension of time until September 27, 2013, to file their response. See Dkt. No. 272. Although Petitioner indicated that he would oppose any requested extension beyond August 5, he did not file an opposition brief. The Court has not ruled on that extension motion. On September 26, 2013, Respondents filed an unopposed motion for a three-business day extension of their responsive filing, so that it would be due on October 2, 2013. See Dkt. No. 277.

In late 2009, the Executive Branch decided, pursuant to the recommendation of the Guantanamo Review Task Force, that the United States could relinquish custody of Petitioner with certain assurances from a receiving country, including assurances related to the availability of medical care in the receiving country. See Exhibit A, Guantanamo Review Task Force Dispositions Chart.<sup>2</sup> Based on consideration of all relevant information specific to the circumstances of Petitioner, including that decision, the Executive Branch has determined that it will no longer contest Petitioner's Petition for Writ of Habeas Corpus, filed on August 2, 2005, Dkt. No. 1. Accordingly, Respondents are withdrawing their reliance upon their amended factual return, filed on October 22, 2008 (Dkt. No. 105).<sup>3</sup>

Under section II.A of the Amended Case Management Order in this case, Respondents bear the burden of proof in litigation regarding a detainee's habeas petition. See Al-Adahi v. Obama, 613 F.3d 1102, 1105 (D.C. Cir. 2010). With Respondents' withdrawal of reliance upon the amended factual return in this matter, Respondents do not sustain their burden of proof in response to Petitioner's request that his petition for habeas corpus be granted.<sup>4</sup> Accordingly, under the governing procedures in this case, the Court may properly grant the habeas writ.

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<sup>2</sup> Exhibit A is an excerpt from a publicly disclosed chart reflecting disposition decisions from the Guantanamo Review Task Force process, except that the entry regarding Petitioner on the chart lifts redactions of unclassified information. The remaining redaction in the entry regarding Petitioner protects from public disclosure information that remains classified.

<sup>3</sup> The October 22, 2008 amended factual return superseded the factual return filed on January 3, 2006 (Dkt. No. 36), upon which Respondents did not rely after the filing of the October 22, 2008 amended factual return. In withdrawing reliance upon the amended factual return, Respondents make no concession that the evidence contained in the original or amended factual return would be insufficient or unreliable.

<sup>4</sup> Because Respondents no longer contest entry of the writ in this case, Petitioner's Motion is now moot. Respondents do not address or concede any issue raised in Petitioner's Motion, except as otherwise expressly stated herein, and there is no ground for the Court to address those issues. Further, Respondents make no concession regarding the lawfulness of

Although Respondents have determined no longer to oppose entry of the writ in this case, Respondents oppose any relief beyond an order of release from Guantanamo. The only relief the Court can properly order here is release from United States custody, not repatriation or transfer to a specific country. See Munaf v. Geren, 553 U.S. 674, 693 (2008) (“Habeas is at its core a remedy for unlawful executive detention . . . [and the] typical remedy for such detention is, of course, release. But here . . . petitioners [do not] want [] simple release.”) (citations omitted); Ahmed v. Obama, 613 F. Supp. 2d 51, 66 (D.D.C. 2009) (Kessler, J.) (granting the writ of habeas corpus, but, in framing the remedy, stating that the court was “[m]indful of the limitations on the scope of the remedy in this situation” and ordered only that “the Government . . . take all necessary and appropriate diplomatic steps to facilitate Petitioner’s release”). Moreover, while Respondents do not contest entry of the writ, Respondents nonetheless must comply with the statutorily mandated, thirty-day advance notice of transfer to Congress when effectuating any Court-ordered release, see Intelligence Authorization Act for Fiscal Year 2012, Pub. L. No. 112-87, § 308, 125 Stat. 1876, 1883 (2012), and Respondents oppose any relief that would interfere with Respondents’ compliance with that requirement. Furthermore, Respondents oppose the relief sought by Petitioner in this case to the extent that it could be construed to prohibit Respondents from appropriately arranging the logistics of Petitioner’s travel from Guantanamo, including with respect to the need to ensure that Petitioner is medically fit to travel.

For the reasons and on the terms set forth above, Respondents do not oppose entry of a writ of habeas corpus in this matter.

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Petitioner’s detention under the Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224 (2001), as informed by the laws of war.

Date: October 2, 2013

Respectfully submitted,

STUART F. DELERY  
Assistant Attorney General

TERRY M. HENRY  
Assistant Director  
U.S. Department of Justice  
Civil Division, Federal Programs Branch

*/s/ Rodney Patton*

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**EXHIBIT A, EXCERPT FROM GUANTANAMO REVIEW TASK FORCE  
DISPOSITIONS CHART**

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Final Dispositions as of January 22, 2010

## Guantanamo Review Dispositions

Country of Origin	ISN	Name	Decision
SA	331	Ayman Muhammad Ahmad Al Shurfa	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends transfer to [REDACTED]
SA	335	Khalid Muhammed	Transfer to Saudi Arabia [REDACTED]
SA	669	Ahmed Zayid Salim Al Zuhayri	Transfer to Saudi Arabia subject to appropriate security measures and further disposition in accordance with Saudi law.
SA	682	Abdullah Al Sharbi	Referred for prosecution.
SA	687	Abdul Aziz Karim	Transfer to Saudi Arabia [REDACTED]
SA	696	Jabran al Qahtani	Referred for prosecution.
SA	713	Mohammed Al Zahrani	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
SA	768	Ahmed Al-Darbi	Referred for prosecution.
SA	1456	Hassan Bin Attash	Referred for prosecution.
SA	10011	Mustafa Ahmad al Hawsawi	Referred for prosecution.
SA	10015	Mohammed al Nashiri	Referred for prosecution.
SO	567	Mohammad Sulayman Barre	Transfer to Somaliland subject to appropriate security measures.
SO	10023	Guleed Hassan Ahmed	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
SO	10027	Abdullahi Sudi Arale	Transfer to Somaliland subject to appropriate security measures.
SU	36	Ibrahim Othman Ibrahim Idris	Transfer to [REDACTED] subject to appropriate security measures, including access to mental health care and any necessary medication.
SU	54	Mohammed Ahmed	Referred for prosecution.
SU	707	Noor Uthman Muhammed	Referred for prosecution.
SY	307	Abd-al-Nisr Khantumani	Transfer outside the United States to a country that will implement appropriate security measures.
SY	312	Muhammad Khantumani	Transfer outside the United States to a country that will implement appropriate security measures.
SY	317	Moammar Badawi Dokhan	Transfer outside the United States to a country that will implement appropriate security measures. Possible destination countries include [REDACTED] or [REDACTED].
SY	326	Ahmed Adnan Ahjam	Transfer to a country outside the United States that will implement appropriate security measures.
SY	327	Ali Hussein Muhammed Shaban	Transfer outside the United States to a country that will implement appropriate security measures.
SY	329	Abd Al Hadi Omar Mahmoud Faraj	Transfer to a country outside the United States that will implement appropriate security measures.
SY	330	Abdah Muhammad Masum	Transfer to a country outside the United States that will implement appropriate security measures.
SY	489	Abd Al Rahim Abdul Razaq Janko	Transfer outside the United States to a country that will implement appropriate security measures (possible destination countries include [REDACTED] and [REDACTED]).

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	)	
Respondents.	)	

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**(PROPOSED) ORDER**

Petitioner's Petition for Writ of Habeas Corpus is hereby granted.

**AND IT IS SO ORDERED.**

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Honorable Royce C. Lamberth  
U.S. District Court Judge