

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

| | | |
|---------------------------------|---|-----------------------------------|
| ABBAR SUFIAN AL HAWARY, |) | |
| |) | |
| Petitioner, |) | Misc. No. 08-0442 (THF) |
| |) | |
| v. |) | Civil Action No. 05-cv-1505 (RMC) |
| |) | |
| GEORGE W. BUSH, |) | |
| |) | |
| President of the United States, |) | |
| <i>et al.</i> , |) | |
| |) | |
| Respondents. |) | |

**PETITIONER ABBAR SUFIAN AL HAWARY'S UNOPPOSED MOTION FOR
EXTENSION OF TIME TO RESPOND TO ORDER TO SHOW CAUSE**

Petitioner Abbar Sufian al Hawary (“Petitioner”), through his counsel, Holland & Hart LLP, respectfully requests a two-week extension of time, from November 21, 2008, to and including December 5, 2008, within which to respond to the Court’s Order dated November 13, 2008, ordering counsel for Petitioner to notify the Court whether Petitioner consents to dismissal of his habeas petition, and if Petitioner does not consent to dismissal, to show cause why his habeas petition should not be dismissed (“Order to Show Cause”). As grounds for this motion, Petitioner states as follows:

1. Undersigned counsel, in compliance with Rule 7(m) of the Local Rules of the United States District Court for the District of Columbia, has conferred with counsel for Respondent, who does not oppose this motion.

2. On February 22, 2007, counsel for Petitioner was informed that he had been “approved to leave Guantanamo.” (Email from Matthew J. Digiacommo to Scott Barker, et al.

(Feb. 22, 2007)) (Ex. A). However, the notification also states, “such a decision does not equate to a determination that your client is not an enemy combatant, nor is it a determination that he does not pose a threat to the United States or its allies.” *Id.*

3. On November 10, 2008, counsel for Petitioner was notified that “the United States has relinquished custody of petitioner Abbar Sufian al Hawary (ISN 1016) and transferred him to the control of the Government of Algeria.” (Email from Andrew Warden to Meghan Winokur, et al. (November 10, 2008)) (Ex. B).

4. Petitioner’s status as an enemy combatant was not removed as part of his transfer to Algeria. Accordingly, Petitioner should have the opportunity to clear his name of the enemy combatant label through the habeas proceeding.

5. Counsel for Petitioner has had no contact with Petitioner since his transfer to the Government of Algeria and is currently unaware of his whereabouts. It is important for counsel to have the opportunity to confer with Petitioner before responding to the Order to Show Cause.

WHEREFORE, Petitioner respectfully requests a two-week extension of time, from November 21, 2008, to and including December 5, 2008, within which to respond to the Order to Show Cause. A proposed order is attached.

Dated: November 20, 2008

Respectfully submitted,

s/ Meghan N. Winokur

Meghan N. Winokur (Colorado State Bar #35973)

Anne J. Castle

Scott Barker

Douglas L. Abbott

J. Triplett Mackintosh

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ATTORNEYS FOR PETITIONERS

CERTIFICATE OF SERVICE

I certify that on November 20, 2008, I served a copy of the foregoing with the Clerk of Court using the ECF system, which will send notification of such filing to the following:

United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W., Room 7144
Washington, DC 20530

s/ Meghan N. Winokur

Holland & Hart LLP

4388036_1.DOC

EXHIBIT A

Danielle Voorhees

From: Triplett J. Mackintosh
Sent: Thursday, February 22, 2007 2:57 PM
To: Danielle Voorhees
Subject: FW: Detainee Status Notification

From: Digiacomio, Matthew J Capt OARDEC, CYTW [<mailto:matthew.digiacomio@navy.mil>]
Sent: Thursday, February 22, 2007 2:56 PM
To: Scott Barker; hmkhan@hollandhart.com; Triplett J. Mackintosh; William Murane
Subject: Detainee Status Notification

Dear Counsel for ISN 1016

Through either the Administrative Review Board (ARB) process or the process DOD had in place prior to ARBs, your client has been approved to leave Guantanamo, subject to the process for making appropriate diplomatic arrangements for his departure. Accordingly, my prior guidance regarding submission of materials for a 2007 ARB for your client is inapplicable to this detainee; he will not be receiving another ARB proceeding.

As you know, such a decision does not equate to a determination that your client is not an enemy combatant, nor is it a determination that he does not pose a threat to the United States or its allies. I cannot provide you any information regarding when your client may be leaving Guantanamo as his departure is subject to ongoing discussions.

DAVID N. COOPER, Lt Col, USAFR
Staff Judge Advocate
DOD HQ OARDEC
Office for the Administrative Review of the Detention of Enemy Combatants
Washington, DC

EXHIBIT B

Meghan Winokur

From: Warden, Andrew (CIV) [Andrew.Warden@usdoj.gov]
Sent: Monday, November 10, 2008 3:00 PM
To: Meghan Winokur; Danielle Voorhees
Subject: GTMO Transfer

Meghan & Danielle:

I am writing to inform you that the United States has relinquished custody of petitioner Abbar Sufian al Hawary (ISN 1016) and transferred him to the control of the Government of Algeria. With the transfer having taken place, we withdraw our request to have the "notice pursuant to the court's July 10, 2008 order" treated as "protected information." We have no objection to public release of this information at this time. We'll file a notice of transfer with the Court in case no. 05-1505.

Best,

Andrew I. Warden
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave, NW
Washington, DC 20530
Tel: 202-616-5084
Fax: 202-616-8470

Exhibit B

11/20/2008