

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AHMED BEN BACHA (BELBACHA),)	
)	
<i>Petitioner,</i>)	Misc. No. 08-442 (TFH)
)	
v.)	Civil Action No. 05-2349 (RMC)
)	
GEORGE W. BUSH, et al.,)	
)	
<i>Respondents.</i>)	
)	
_____)	

STATUS REPORT

Pursuant to this court’s Order, Counsel for Petitioner hereby submit the following status report on behalf of Ahmed Belbacha, and state as follows:

1. Factual Background

Ahmed Belbacha, ISN 290, is an Algerian citizen and former resident of the United Kingdom. Mr. Belbacha fled Algeria in 1999, under threat from the Groupe Islamiste Armé (GIA), Algeria’s then-chief terrorist group. (The GIA has since morphed into the modern-day “Al Qaeda in the Islamic Maghreb.”) Mr. Belbacha travelled from the UK to Afghanistan in July 2001 on a six-month return ticket, hoping to study his religion and return to the UK when the economy improved.

He never made it. He was seized on the border while trying to escape the bombing, and sold to the US military, who took him to Kandahar and then Guantánamo.

Mr. Belbacha has been cleared for release from Guantánamo since 2006, but fears return to his native Algeria because of the real risk of: 1) torture by the Algerian

government, for his imprisonment in Guantánamo and for having gone public with his fear of return; 2) being targeted by the militant groups in Algeria who had formerly threatened his life, because of his military service and his former employment with Sonatrach, the large state-owned oil company in Algeria.

2. Background of the Petition

This petition was filed on December 8, 2005. This court stayed these cases on January 27, 2006, “pending the jurisdictional ruling of the District of Columbia Circuit.”

On June 26, 2006, Petitioner moved for the stay to be temporarily lifted and the Protective Order entered in this case. Over Respondents’ opposition, the Court entered the Protective Order on August 4, 2006.

On April 19, 2007, Respondents moved to dismiss this action in light of the D.C. Circuit’s jurisdictional ruling in *Boumediene v. Bush*, 476 F.3d 981 (D.C. Cir. 2007). The motion was not ruled upon before the Supreme Court reversed the *Boumediene* ruling.

On July 26, 2007, Mr. Belbacha moved for an order barring his imminent repatriation to Algeria on grounds that he faced torture there. On July 27, 2007, after a hearing, this Court denied that order on jurisdictional grounds, and the Petitioner appealed to the D.C. Circuit (USCA number 07-5258) and the Supreme Court (nos. 07-173, a petition for certiorari before judgment, and 07-174, an original habeas action). The Supreme Court declined to hear both cases.

On March 14, 2008, the D.C. Circuit granted Belbacha’s appeal on the merits:

We conclude that Belbacha’s petition for a writ of habeas corpus is colorable. Belbacha does not challenge only his transfer to a country that might torture him; he contests also the basis for his detention as an “enemy combatant.” Should the Supreme Court hold in *Boumediene* that a detainee at Guantánamo Bay may petition for a writ of habeas corpus to

challenge his detention, and should the district court conclude that Belbacha's detention is unlawful, then the Executive might be without authority to transfer him to Algeria.... the district court has the authority to grant Belbacha preliminary relief because the Suspension Clause colorably protects those claims and, as we explain below, because § 7(a) does not displace its remedial powers.

520 F. 3d 452 at 456 (D.C. Cir, 2008).

On May 9, 2008, the D.C. Court of Appeals handed down its mandate in this case, ordering the Court to consider the merits of Belbacha's motion for a preliminary injunction.

On May 14, 2008, this Court set a briefing schedule in light of the Circuit Court decision.

On May 27, 2008, Petitioner moved to vacate the briefing schedule pending the resolution of the jurisdictional questions in *Boumediene*, citing the D.C. Circuit's *Belbacha* decision, 520 F. 3d at 456 (Mar. 14, 2008) ("Should the Supreme Court hold in *Boumediene* that a detainee at Guantánamo Bay may petition for a writ of habeas corpus to challenge his detention, and should the district court conclude that Belbacha's detention is unlawful, then the Executive might be without authority to transfer him to Algeria."). On June 10, 2008, this Court granted that motion.

On June 13, 2008, the Court enjoined transfer of Mr. Belbacha to Algeria "pending briefing and resolution of the issues left unresolved in *Boumediene* which the Supreme Court left to be decided by the District Court in the first instance." See Dkt. No. 44 (June 13, 2008).

3. Factual Return

No factual return has been filed in this action.

Respondents should be required to certify that none of the evidence alleged against Petitioner was exacted through torture, coercion or cruel and degrading

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treatment of him or others, and that none of the evidence is the fruit of such poisonous tree. Respondents should be required also to provide any and all exculpatory information or documents in their possession, no matter when it was acquired.

Respondents should be ordered to produce all evidence in unredacted form to allow counsel to properly evaluate the nature of the evidence. Petitioners' counsel has Secret clearance and has access to the secure facility. There is no need for the government to redact any information in this case. Should the government desire to redact information, Petitioner requests that the Court order the Government to move the Court for express permission to redact said information, providing the Court with the specific reasons the proposed redactions are necessary.

Dated: July 18, 2008

Respectfully submitted,



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Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy to be served upon counsel for Respondents by filing this document directly on ECF, pursuant to approval by the Court Security Office.

Dated: July 18, 2008


