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

 IN RE:

) Misc. No. 08-442 (TFH)

 GUANTÁNAMO BAY
 DETAINEE LITIGATION

) Civil Action No. 05-280 (GK)

STATUS REPORT RE July 8, 2008 HEARING

Petitioners in *Al-Adahi v. Bush*, 1:05-280, are ready to go to trial. Petitioners need no discovery, no amended returns, no motions, no delay, no definitions, no coordination. If the Court will send us back to Judge Kessler, we are ready to proceed with a hearing on these petitions for habeas corpus.

At the outset of the hearing on July 8, 2008, the Court inquired whether any of the habeas cases are currently in a posture ready for habeas hearings. In response, Shane Kadidal, counsel for the Center for Constitutional Rights, informed the Court that Sutherland, representing petitioners in *Al-Adahi v. Bush*, Civ. No. 05-280 (GK), volunteers to go first. We are ready for a hearing on the government's allegations; whatever their evidence, we are prepared to face it.

Indeed Petitioners need to be heard and soon.¹ All are Yemenis. We have five Petitioners, two cleared for release and three who we will show are held illegally. As these cases have dragged on, two, in the depths of despond as Camus put it, have attempted suicide: one by two prolonged hunger strikes, one by slitting his wrists. And as is discussed below, the two that have been cleared for release want to go to Yemen, Yemen will take them back, but, for its own

¹ Counsel will meet with petitioners in Guantánamo the week of July 28, 2008.

reasons, our executive branch will not send them back. These men need an independent judge to hear their voices.

A. The two petitioners cleared for release should be sent home to Yemen

On February 7, 2008, Respondents notified counsel that Fahmi Salem Al-Assani and Suleiman Awadh Bin Agil Al-Nahdi had been approved for release. Copies of those notices are attached as Exhibits A and B. Based on Respondents' concession that they no longer have grounds to detain them, Mr. Al-Assani and Mr. Al-Nahdi seek *immediate* release. Because Mr. Al-Assani and Mr. Al-Nahdi have been cleared for release, there is no need to resolve any factual dispute concerning them.

At the hearing on July 8, 2008, the Court suggested those cleared were hindered only by the lack of a country to take them.² With respect to Mr. Al-Assani and Mr. Al-Nahdi that decidedly is not the case. They are Yemeni, they want to go to Yemen and the Yemeni government is happy to receive them. Respondents have asserted that diplomatic obstacles arising from issues in Yemen have delayed the release of Yemenis cleared for release. However, the Yemeni Ambassador to the United States, Abdul-Wahab al-Hajri has reported that the Yemeni government has commenced a program to "rehabilitate" the detainees that are freed from Guantanamo Bay and has stressed that Yemen is eager to repatriate its citizens. (*See Yemeni Ambassador presses America to release Yemenis from Guantanamo*, Yemen Observer, June 28, 2008, Exhibit C). In addition, diplomatic staff at the Yemen Embassy have stated unequivocally that Yemen will receive these men. (*See Declaration of Wesley Powell*, attached; signed declaration is in transit and will be filed, Exhibit D). It appears that the only obstacle to

² The Court's suggestion that cleared prisoners should be consolidated before one judge makes sense generally, but perhaps not here. Petitioners are not souls seeking a nation to take them.

the release of Mr. Al-Assani and Mr. Al-Nahdi are conditions Respondents are attempting to impose on the Government of Yemen. Accordingly, there is simply no reasonable justification for Respondents' continued detention of Mr. Al-Assani and Mr. Al-Nahdi, in the seventh year after they were transported to Guantánamo. The Executive branch only needs the nudge of a Federal District Judge to send these men home.

B. The other *Al-Adahi* Petitioners

We represent three other Petitioners in this case. All are in their seventh year in Guantánamo. The physical and mental health of Petitioners Muhammad Al-Adahi and Muhammad Ali Abdullah Bawazir have deteriorated. Mr. Al-Adahi suffers from a heart condition, has high blood pressure spiking as high as 200/130 and has attempted suicide. He takes approximately seventeen different medicines. Mr. Bawazir has resorted twice to hunger strikes stating he would rather die than remain imprisoned at Guantánamo. Mr. Bawazir is alive today only because the Respondents have resorted to force feedings where they strap him in a restraint chair³, force a tube through his nose into his stomach twice a day and, when they successfully broke him, kept him confined in the restraint chair in his own excrement.

Undersigned counsel respectfully suggest that the Court send this case back to Judge Kessler for immediate disposition.

Respectfully submitted,

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³ Restraint chairs should be used only for those dangerous to themselves or others. Respondents use the chairs to punish compliant hunger strikers.

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July 9, 2008
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CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2008, I filed the foregoing electronically through the CM/ECF system, which caused the following counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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