

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

	-	X	
	:		
IN RE:	:		Misc. No. 08-442 (TFH)
	:		
GUANTANAMO BAY	:		Civil Action No. 05-1497 (RCL)
DETAINEE LITIGATION	:		
	:		
	:		
	-	X	

STATUS REPORT FOR THE CASE OF ADEL AL WIRGHI (ISN 502)

On behalf of Adel Al Wirghi (ISN 502),¹ who is currently detained at Guantánamo and is the petitioner in habeas corpus proceeding 05-cv-1497 (RCL) (D.D.C.), we write to provide a concise report summarizing the status of the case, as directed in the Court’s July 11, 2008 Scheduling Order.

On August 1, 2005, a next friend petition for a writ of habeas corpus was filed on Mr. Al Wirghi’s behalf by Moazzam Begg, a former Guantánamo detainee.² That proceeding was assigned to the Honorable Royce Lamberth. The Government challenged Mr. Begg’s next friend status by motion to dismiss. While that motion was

¹ In this report, we employ the spelling of Petitioner’s name used in the Petition, which was filed before counsel had met Petitioner. We have since been informed by Petitioner and a translator that a preferable transliteration of the name from Arabic to English is “El Ouerghi.”

² Mr. Al Wirghi was designated an enemy combatant by a Combatant Status Review Tribunal, and there are no criminal charges pending against him before a military commission. Mr. Al Wirghi filed a petition under the Detainee Treatment Act of 2005 (“DTA”) in the United States Court of Appeals for the District of Columbia Circuit to review the determination of his Combatant Status Review Tribunal. *El Ouerghi v. Gates*, 07-1263.

pending, on December 12, 2005, Mr. Al Wirghi's mother, Tawiss Bint Hasan Al Wirghi was substituted for Mr. Begg as next friend. On Mr. Al Wirghi's motion, which the Government opposed, the Court entered an order on September 28, 2006, applying to this proceeding the Amended Protective Order first issued on November 8, 2004 in other detainee habeas proceedings and related orders. The September 28, 2006 order also stayed this proceeding "pending resolution of all appeals" in the *Boumediene* and *Al Odah* cases that were decided by the Supreme Court of the United States on June 12, 2008.

The classified portion of Mr. Al Wirghi's Combatant Status Review Tribunal record was made available to counsel on March 17, 2008. No additional discovery has been provided in this case.

On February 7, 2008, counsel for Mr. Al Wirghi received notice from the Department of Defense that Mr. Al Wirghi had "been approved to leave Guantánamo, subject to the process of making appropriate diplomatic arrangements for his departure." Fearing torture and other mistreatment if he were repatriated to Tunisia, the country of his birth, Mr. Al Wirghi sought an order from Judge Lamberth requiring the Government to give 30-days notice before transferring Mr. Al Wirghi from Guantánamo.³ Mr. Al Wirghi also sought a preliminary injunction enjoining the Government from transferring him to Tunisia. By order signed April 11, 2008, Judge Lamberth granted Mr. Al Wirghi's motion for 30-days notice before transfer and further ordered the Government to

³ Mr. Al Wirghi's fear of torture has been voiced in a series of letters from undersigned counsel to United States Department of State Ambassador-at-Large for War Crimes Issues Clint Williamson, and other senior government officials.

inform counsel of the country to which Mr. Al Wirghi would be transferred. Judge Lamberth also ordered that Mr. Al Wirghi may renew his motion for a preliminary injunction barring transfer if a 30-days notice is provided by the Government. Mr. Al Wirghi's counsel is unaware of any appeal of Judge Lamberth's April 11 Order by the Government.

Dated: July 17, 2008

Respectfully submitted,

/s/ Suhana S. Han

Michael A. Cooper
Suhana S. Han
Jessica M. Klein
125 Broad Street
New York, New York 10004
Tel. (212) 558-4000
Fax: (212) 558-3588

*Counsel for Petitioners Adil bin Muhammad
al Wirghi and Tawiss bint Hasan al Wirghi*

Of Counsel
Wells Dixon
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, New York 10012
Tel: (212) 614-6439
Fax: (212) 614-6499