

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

OMAR DEGHAYES, et al.)	
)	
Petitioners,)	
)	
v.)	Civil Action No. 04-2215 (RMC)
)	
GEORGE W. BUSH, et al.,)	
)	
Respondents.)	
)	

RESPONDENTS' NOTICE IN RESPONSE TO COURT'S ORDER OF JUNE 14, 2005

Respondents respectfully submit this notice in response to the Court's Order of June 14, 2005 (dkt. no. 18), ordering the United States to file notice with the Court 30 days prior to any transfer of petitioner Omar Deghayes to Libya, but otherwise denying petitioners' motion for a preliminary injunction requiring 30 days prior notice of transfer or repatriation from Guantanamo Bay Naval Base.

Respondents intend to transfer petitioner Jamal Kiyemba to the exclusive custody and control of his country of citizenship, Uganda, for any further detention, investigation, and/or prosecution deemed appropriate by that country under its laws. Although the Court's Order of June 14, 2005 does not expressly require respondents to give notice of any transfer of petitioner Kiyemba, and although respondents continue to oppose being required to give such notice for the reasons set forth in their opposition to petitioners' motion for preliminary injunction (dkt. no. 13), respondents are providing this particular notice voluntarily in an abundance of caution and in the spirit of candor to the Court.¹

¹ The June 14, 2005 Order bases the denial of advance-notice relief as to petitioner Kiyemba on, inter alia, the fact that "[t]he record is conspicuously barren of evidence that the

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Respectfully submitted,

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United States plans to transfer Shaker Aamer or Jamal Kiyemba to their home countries” and that Kiyemba “provides no evidence that the United States has threatened to involuntarily repatriate him.” Order at 6. Respondents agree that petitioners did not sustain their burden in moving for a preliminary injunction, and that the record was – and remains – entirely devoid of evidence that the United States would transfer petitioners to countries in circumstances where it is more likely than not that they would be tortured; in fact, the evidence is to the contrary. Respondents do, however, consider transfers (whether voluntary or involuntary) of Guantanamo detainees in accordance with respondents’ policies to be appropriate and regularly carry out such transfers, and a detainee’s country of origin is most typically the destination in such a transfer. See Waxman Declaration dated Mar. 8, 2005 (Ex. 1B to dkt. no. 13, Resps.’ Opp. to PI Motion) ¶¶ 3-5; Waxman Declaration dated June 2, 2005 (dkt. no. 19) ¶¶ 3-5. To the extent that the Court may have construed respondents’ submissions to suggest that the repatriation of a particular detainee (including petitioner Kiyemba) would be inherently unlikely for reasons other than as set forth in the Waxman and Prosper declarations, respondents wish to clarify that their position is as stated above and give this notice voluntarily in an abundance of caution. Of course, any transfer and repatriation, including the pending one described in this Notice, is and will be conducted in accordance with the policies and practices set forth in the declarations of Deputy Assistant Secretary Waxman and then Ambassador Prosper filed in opposition to petitioners’ motion, and in the subsequent declaration of Deputy Assistant Secretary Waxman filed on July 11, 2005 (dkt. no. 19).

/s/ Robert J. Katerberg

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