

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Lieutenant Commander CHARLES SWIFT, a
resident of the State of Washington, as next
friend for SALIM AHMED HAMDAN,

Military Commission Detainee,
Camp Echo,
Guantanamo Bay Naval Base,
Guantanamo Bay, Cuba,

Petitioner,

v.

DONALD H. RUMSFELD, United States
Secretary of Defense; JOHN D.
ALTENBURG, Jr., Appointing Authority for
Military Commissions, Department of Defense;
Brigadier General THOMAS L.
HEMINGWAY, Legal Advisor to the
Appointing Authority for Military
Commissions; Brigadier General JAY HOOD,
Commander Joint Task Force, Guantanamo,
Camp Echo, Guantanamo Bay, Cuba;
GEORGE W. BUSH, President of the United
States,

Respondents

NO. CV04-0777L

**PETITIONER'S REQUEST FOR
EARLY STATUS CONFERENCE**

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3 Petitioner Lieutenant Commander Charles Swift ("Lt. Commander Swift")
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5 respectfully requests an early status conference with the Court to address the following
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7 issues:

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9 **1. Briefing Schedule on the Petition for Writ of Mandamus, or in the**
10 **alternative, Writ of Habeas Corpus**

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12 Lt. Commander Swift filed his Petition for Writ of Mandamus, or in the alternative,
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14 Writ of Habeas Corpus, on April 6, 2004. On April 23, Respondents filed a Motion for
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16 Order Holding Petition in Abeyance ("Motion for Stay"), which is noted for consideration
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18 on May 14, 2004. Lt. Commander Swift will oppose that motion for multiple reasons, and
19
20 has requested that Respondents agree to advance the date of consideration of that motion by
21
22 one week. (See letter to Assistant U.S. Attorney Brian C. Kipnis, attached hereto as Ex. A.)
23
24 In making his request for an earlier noting date, Lt. Commander Swift is proposing a
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26 schedule that shortens his time for submitting an opposition brief, but does not shorten
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28 Respondents' turnaround time for a Reply.

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30 Respondents have yet to file a "Return" or otherwise respond on the merits to the
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32 pending Petition.

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34 Regardless of the date on which Respondents' Motion for Stay is decided,
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36 Lt. Commander Swift believes that in the interim this case should move forward, and that it
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38 would be tantamount to granting Respondents' motion prior to consideration on the merits if
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40 the Court were to delay setting a "Return" date for the Government's response to the
41
42 underlying Petition until after ruling on the Motion for Stay. Respondents have
43
44 characterized this action as a "next-friend habeas petition". (Respondents' Motion at 4.)
45
46 Consistent with the habeas statute, 28 U.S.C. § 2243, Lt. Commander Swift believes that
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1 this Court should "forthwith award the writ or issue an order directing the respondent to
2 show cause why the writ should not be granted".
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5 Avoiding delay is critically important in this case because the central claim of the
6
7 Petition is illegal delay in the first place. Every day that passes forces Mr. Hamdan to
8
9 endure the harsh conditions of solitary confinement. Every additional day risks greater
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11 psychological trauma. Mr. Hamdan's condition is deteriorating to the point that he has
12
13 expressed a desire to harm himself. Indeed, earlier this month he initiated a hunger strike in
14
15 response to the conditions of his confinement.¹ Without prompt intervention by this Court,
16
17 Mr. Hamdan's condition and ability to defend himself at trial may be irretrievably worsened.
18
19 To compound the preexisting illegal delay with an additional procedural delay is to risk
20
21 denial of the claim before it has been heard.

22
23 Lt. Commander Swift proposes that Respondents' "Return" to the Petition be
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25 submitted by May 14 (38 days after the filing of the Petition), Petitioner's Reply be
26
27 submitted by May 21, and oral argument on the Petition be scheduled for the last week of
28
29 May or the next available date.

30 31 **2. Timetable and Procedure for Limited Discovery**

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33 Lt. Commander Swift believes that some discovery is needed to present facts
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35 relevant to Petitioner's claims at any evidentiary hearing the Court might order in connection
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37 with the Petition, and requests that a timetable and procedure for discovery be addressed by
38
39 the parties and set by the Court.
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46 ¹ He was persuaded by Lt. Commander Swift to abandon the hunger strike after about one week, in
47 part by informing him of the filing of the Petition on his behalf with this Court.

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Respectfully submitted this 27th day of April, 2004.

NEAL KATYAL

By /s/
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LIEUTENANT COMMANDER CHARLES SWIFT

By /s/
Lieutenant Commander Charles Swift,
N.C. Bar #21084
Petitioner, as Next Friend for
Salim Ahmed Hamdan

PERKINS COIE LLP

By /s/ Harry H. Schneider, Jr.
Harry H. Schneider, Jr., WSBA #9404
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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this 27th day of April, 2004, I caused to be served a true and correct copy of **Petitioner's Request for Early Status Conference** upon the following, at the addresses stated below, via the method of service indicated:

Mr. John McKay	<u> X </u>	Via hand delivery
Brian C. Kipnis	<u> </u>	Via Certified Mail, Return Receipt Requested
U.S. Attorney's Office	<u> </u>	Via Overnight Delivery
601 Union Street, Suite 5100	<u> </u>	Via Facsimile
Seattle, WA 98101	<u> </u>	Via E-filing
Jonathan L. Marcus	<u> </u>	Via hand delivery
Appellate Section, Criminal Division	<u> </u>	Via Certified Mail, Return Receipt Requested
U.S. Department of Justice	<u> </u>	Via Overnight Delivery
601 D Street, N.W., Suite 6206	<u> X </u>	Via Facsimile
Washington, D.C. 20530	<u> </u>	Via E-filing

DATED at Seattle, Washington, this 27th day of April, 2004.

PERKINS COIE LLP

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PETITIONER'S REQUEST FOR EARLY STATUS
CONFERENCE - 6
(CASE NO. CV04-0777L)
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