

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

**SHAKER AAMER,** )  
 )  
*Petitioner/Plaintiff,* )  
 )  
 v. )  
 )  
**GEORGE W. BUSH, et al.,** )  
 )  
*Respondents/Defendants.* )  
\_\_\_\_\_ )

**Civ. No. 04-cv-2215 (RMC)**

**MOTION TO LIFT STAY AND FOR PRELIMINARY INJUNCTION ENFORCING  
GENEVA CONVENTIONS**

Petitioner Shaker Aamer respectfully files this motion to lift the stay in this case and enter a preliminary injunction enforcing the Geneva Conventions.<sup>1</sup> Mr. Aamer has been held in complete isolation for the past 360 days. Guards have beaten Mr. Aamer, deprived him of sleep, subjected him to temperature extremes and cut off ventilation in his cell. He has not had any contact with any fellow prisoners for months. He has not seen the sun for many weeks. He is not being treated humanely. This is a clear violation of Common Article Three of the Geneva Conventions. Mr. Aamer must be removed from isolation.

Counsel has now had information about Mr. Aamer declassified, immediately brought it to the attention of the Guantánamo authorities in writing without response, and thus is bringing this motion urgently. In the interim, Counsel raised the matter on two occasions with base personnel. Yet, when Counsel for Mr. Aamer visited Guantánamo Bay on September 12, Mr.

<sup>1</sup> Petitioner believes the stay should be lifted entirely in this case. However, at minimum, the Court should lift the stay for the limited purpose of ordering the requested injunction.

Aamer was apparently still living in the same isolated cell in Camp Echo; unfortunately, counsel was not able to meet with Mr. Aamer, and the authorities refused to allow counsel simply to enter the cell to check on Mr. Aamer's well-being. Counsel is extremely concerned for Mr. Aamer's mental and physical health.

Common Article Three of the Geneva Conventions clearly applies to prisoners held in Guantánamo Bay. *Hamdan v. Rumsfeld*, 126 S.Ct. 2749 (2006). Mr. Aamer has been held prisoner in Guantánamo for over four and a half years. Therefore, Petitioner requests that this Court lift the stay in his case and order Respondents to remove Mr. Aamer from isolation immediately. Because of the urgency of this situation, Counsel requests expedited briefing and a hearing on the matter at the Court's earliest convenience.

### **BACKGROUND**

On February 3, 2005, this Court stayed this habeas petition pending resolution of the appeals in *Boumediene v. Bush*. [Dkt. No. 7] Over 19 months have now passed, but the Circuit Court has yet to rule.

On June 28, 2006, the Supreme Court ruled that Common Article Three of the Geneva Conventions of 1949 applies to every prisoner in Guantánamo Bay, and indeed every prisoner caught up in the War on Terror. *See Hamdan*, 126 S.Ct. at 2793-2797.

Common Article Three guarantees that:

(1) Persons taking no active part in the hostilities, including ... those placed 'hors de combat' by ... detention ..., shall in all circumstances be treated humanely ....

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

...

(c) outrages upon personal dignity, in particular humiliating and degrading treatment ...

See, e.g., Geneva Convention (III) Relative to the Treatment of Prisoners of War, Aug. 12, 1949, [1955] 6 U. S. T. 3316, T. I. A. S. No. 3364.<sup>2</sup>

Even before the Supreme Court ruling, President Bush had repeatedly stated that prisoners in Guantánamo were to be treated humanely. *See, e.g.*, Presidential Directive, “Humane Treatment of al-Qaeda and Taliban Detainees” (February 7, 2002) (requiring “detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva”), available at [http://www.humanrightsfirst.org/us\\_law/etn/gonzales/memos\\_dir/dir\\_20020207\\_Bush\\_Det.pdf#search=%22february%20%202002%20presidential%20directive%20humane%20treatment%20detainee%22](http://www.humanrightsfirst.org/us_law/etn/gonzales/memos_dir/dir_20020207_Bush_Det.pdf#search=%22february%20%202002%20presidential%20directive%20humane%20treatment%20detainee%22).

Mr. Aamer has been a prisoner in Guantanamo Bay since February 2002, the date of that Presidential directive. He is not being treated humanely.

Starting on or around July 26, 2005, Mr. Aamer, who was respected by the prisoners and able to act as intermediary because of his fluent English, worked extensively with Colonel Mike Bumgarner to put an end to a widespread hunger strike. The strike had reached a life-threatening stage for a number of men. *See* Exhibit 1, Declaration of Zachary Philip Katznelson, at ¶ 7. At Colonel Bumgarner’s request, Mr. Aamer personally persuaded many of the hunger strikers to end their fast. Mr. Aamer then attempted to help negotiate improved conditions in the camp, while also advocating that the prisoners be charged and tried or sent home. *Id.* Mr. Aamer helped to facilitate a settlement.

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<sup>2</sup> Common Article Three is found in all four Geneva Conventions of 1949.

However, various events then conspired to cause a breakdown between the prisoners and the authorities. The most significant event was the beating of Hisham Sliti, a Tunisian prisoner, by an interrogator who was later suspended. *See* Exhibit 2, Attachment B, *New York Times* Article by Tim Golden (Sept. 17, 2006), 16. Several other incidents took place, and unfortunately the settlement collapsed. *Id.* On August 9, 2005, the military decided to send Mr. Aamer to solitary confinement, because he had played such a significant role in the earlier negotiations. *See* Katznelson Declaration at ¶ 7; Exhibit 2 at 17.

On September 8, 2005, Mr. Aamer was briefly removed from isolation. *See* Katznelson Declaration at ¶ 8. However, on September 24, 2005, he was returned to Camp Echo and placed again in solitary confinement. *Id.* at ¶ 9. He has remained there ever since. *Id.* As of the date of this filing, he has been in isolation for 360 consecutive days. *Id.* Prison rules in Guantánamo permit isolation only for up to 30 days at a time. *Id.* at ¶ 8. Those rules have not been enforced in Mr. Aamer's case.

As counsel saw in person, Mr. Aamer lives in a 6' by 8' cell which contains a steel bunk, steel toilet, steel sink, a Qur'an and an isomat (an approximately inch-thin mattress). *Id.* at ¶ 20. As the bed, toilet and sink are built-in, the actual floor area of the cell is only about 3' by 4'. *Id.* The cell in which he lives and the adjoining shower cell are contained entirely within a wooden shack. *Id.* at ¶ 25. The shack also contains an interrogation area, roughly the same size as the two cells combined; however, Mr. Aamer is kept at all times in the cells, except when counsel or interrogators visit. *Id.* The inside of the shack is constantly monitored by a video camera, even when Mr. Aamer uses the bathroom. *Id.* The door to the shack is kept closed except for when guards enter and leave. *Id.* at ¶ 26.

Mr. Aamer informed counsel that the florescent lights in the cell are never turned off or even dimmed. *Id.* at ¶ 21. Much of the time, even though Mr. Aamer is on video at all times, the guards come to his door every 15 minutes to check on him. *Id.* at ¶ 26. The bright lights and constant opening and closing of the door prevent him from sleeping. *Id.* at ¶¶ 21, 26.

Mr. Aamer wears thin cotton orange trousers, a thin cotton orange shirt and flip-flops. *Id.* at ¶ 22. Mr. Aamer is not permitted any other items whatsoever. *Id.* Mr. Aamer is denied a toothbrush or even a cup. *Id.* According to Muslim tradition, Mr. Aamer is meant to wash himself after using the toilet, rather than use toilet paper. *Id.* at ¶ 23. However, without a cup, he is forced to use his hand to wash his anus. *Id.*

Mr. Aamer informed counsel that the air conditioner is often turned off, leaving him sweltering in the Cuban heat. *Id.* at ¶ 27. At other times, the air conditioner is turned up full blast so the cell is freezing cold. *Id.* Mr. Aamer is deprived of a blanket. *Id.*

Mr. Aamer reports that he suffers from many medical problems, including: asthma, edema, arthritis in his knees and ankles, kidney pain, tinnitus, constant constipation, and stomach pains. *Id.* at ¶ 28. His living conditions greatly exacerbate these problems, causing extreme pain and discomfort. *Id.*

Counsel is also gravely concerned for Mr. Aamer's mental health; he appeared manic and verged on hysteria during undersigned counsel's recent visit.

### **ARGUMENT**

The stay should be lifted and an injunction entered for legal and equitable reasons.

### **Mr. Aamer Meets All the Criteria for a Preliminary Injunction as He Is Being Held in Violation of the Geneva Conventions**

In considering Mr. Aamer’s request for a preliminary injunction, the Court must consider four factors: (1) whether Mr. Aamer has a substantial likelihood of success on the merits; (2) whether Mr. Aamer would suffer irreparable injury were an injunction not granted; (3) whether an injunction would substantially injure other interested parties; and (4) whether the grant of an injunction would further the public interest. *See Al-Fayed v. CIA*, 254 F.3d 300, 303 (D.C. Cir. 2001). “These factors interrelate on a sliding scale and must be balanced against each other.” *Serono Labs., Inc. v. Shalala*, 158 F.3d 1313, 1318 (D.C. Cir. 1998). “If the arguments for one factor are particularly strong, an injunction may issue even if the arguments in other areas are rather weak.” *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 746 (D.C. Cir. 1995).

All four factors counsel in favor of the injunction for Mr. Aamer. His rights under the Geneva Conventions are clearly being violated – as are Guantánamo Bay’s own internal rules. He is being harmed severely mentally and physically by those violations. Respondents have failed to respond to no less than three requests to end the violation of Mr. Aamer’s rights; it is time for the Court to step in. Respondents would not suffer harm from an injunction enforcing Mr. Aamer’s rights. Any supposed camp discipline concerns cannot override an international treaty and a United States Supreme Court ruling. They certainly cannot justify the treatment Mr. Aamer has received. Finally, it is surely in the public interest for Respondents to show the world that they are indeed honoring the Geneva Conventions, as they have very publicly promised to do. Any failure to adhere to such promises will be used as fuel for the propaganda machine of extremists. Every day that Common Article Three violations continue is a day that our troops – indeed all of us – are less safe.

**The Court Should Act Immediately as the Decision in *Boumediene* Will Not Impact the Rights at Issue Here**

The Court should no longer wait for a decision in *Boumediene* before going forward in this case. *Boumediene* will decide what constitutional rights, if any, Mr. Aamer has. See *Boumediene v. Bush* and *Khalid v. Bush*, Case Nos. 05-5062 & 05-5063, and *Al Odah v. U.S.*, Case Nos. 05-5064, 05-5095 through 05-5116. But regardless of the outcome in *Boumediene*, there can be no dispute that after *Hamdan* Mr. Aamer has rights under the Geneva Conventions. *Boumediene* simply will not bear on those rights at all.

Judge Kennedy has already recognized in several other cases that *Hamdan* warrants lifting the stays in pending *habeas* petitions, and this court should do the same. See Order Lifting the Stay, *Al-Asadi v. Bush*, Civil Action No. 05-2197-HHK (September 11, 2006) [Dkt. No. 35]; Order, *Zakirjan v. Bush*, Civil Action No. 05-2053-HHK (Aug. 18, 2006) [Dkt. No. 61].

Speedy relief from executive detention is the core purpose of habeas corpus; accordingly, petitioner respectfully submits that to require him to await the conclusion of *Boumediene* before arguing the habeas petition he submitted in December 2004 amounts to an effective suspension of the Great Writ. See Petition for Habeas Corpus [Dkt. No. 1] (filed Dec. 22, 2004).

It is an abuse of discretion to unreasonably maintaining a stay in a *habeas* petition, over petitioner's objection, while waiting for another petition to settle a rule of law that might govern both. In *Landis v. North American Co.*, 299 U.S. 248, 57 S. Ct. 163 (1936), the Supreme Court found that a stay issued while awaiting a parallel decision exceeded appropriate bounds because the length of the stay "was not kept within the bounds of moderation." *Id.* at 256. Significantly, though that case involved a securities dispute (and therefore lacked the urgency of a habeas petition), the Court disapproved of a stay of similar duration to the one contested here. The

Court found it excessive that “already the proceedings in the District Court have continued more than a year.” *Id.* at 257. The Supreme Court also noted that, though district courts generally have discretion to grant stays to promote the efficient management of their docket, *see id.* at 254-55, courts must exercise caution when a stay presents “even a fair possibility ... of damage to someone else.” *Id.* at 255. The damage caused by further delay in this habeas petition—not only to petitioner’s case, but to his mental and physical health—is only underscored by this summer’s three suicides. Despair lurks dangerously in Guantánamo Bay.

Of equal significance, the *Landis* Court reasoned that the likelihood of further delay in the Court of Appeals was all the more reason to proceed at the district level: “With the possibility of an intermediate appeal to the Circuit Court of Appeals, a second year or even more may go by before this court will be able to pass upon the Act.” *Id.* at 256. The Court noted that even “in cases of extraordinary public moment,” as the Guantánamo cases undoubtedly are, a stay is only appropriate insofar as it is “not immoderate in extent and not oppressive in its consequences.” *Id.*

The current appeal in the D.C. Circuit raises precisely this specter: petitioner’s case has already been held for over 19 months awaiting guidance from one appellate decision. That decision, when at last it is issued, will undoubtedly be appealed (and quite likely argued) in the U.S. Supreme Court, adding the prospect of still further delay. Petitioner could potentially wait years for his habeas petition to be heard. Prolonging the stay for still more clarification than what *Hamdan* has already provided would exceed the bounds of moderation. *Landis*, 299 U.S. at 256. *Cf. Dellinger v. Mitchell*, 442 F.2d 782, 787, 143 U.S. App. D.C. 60 (D.C. Cir. 1970) (noting the “particular importance” of caution in granting and maintaining stays “where the claim being stayed involves a not insubstantial claim of present and continuing infringement of

constitutional rights”); *McSurely v. McClellan*, 426 F. 2d 664, 672, 138 U.S. App. D.C. 187 (D.C. Cir. 1970) (vacating lower court’s stay in a civil case pending the resolution of appeals in the related criminal case because of the scope and potential length of such a stay).

Because of the critical liberty interests at stake, habeas cases “implicate special considerations that place unique limits on a district court’s authority to stay a case in the interests of judicial economy.” *Hoeun Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000). The *Yong* court lifted a stay of only five months on a habeas petition because its terms, like those of the stay in this case, were too “indefinite”—that is, because the stay only “terminat[ed] upon resolution of the [related] appeal.” *Id.* at 1119 (internal citation omitted). The core purpose of the Great Writ is to provide a “swift and imperative remedy in all cases of illegal restraint or confinement,” *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484 (citing *Secretary of State for Home Affairs v. O’Brien*, [1923] A. C. 603, 609 (H. L.)), and its protections are “reduced to a sham if . . . trial courts do not act within a reasonable time.” *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978) (footnote omitted) (requiring the district court to address the merits of a habeas petition it had functionally ignored for two years); *see also Ruby v. United States*, 341 F.2d 585, 587 (9th Cir. 1965) (dismissing habeas petition as an incorrect vehicle for the relief sought but noting that, when appropriate, a habeas petition “usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action”); *Yong*, 208 F.3d at 1120 (“A long stay also threatens to create the perception that courts are more concerned with efficient trial management than with the vindication of constitutional rights.”).

The federal habeas statute, recognizing the importance of expediency in such cases, requires that district courts “summarily hear and determine the facts, and dispose of [a habeas petition] as law and justice require,” mandating return of the writ within three days, absent good

cause, and a hearing within five days thereafter. 28 U.S.C. § 2243. Mr. Aamer has awaited proceedings on his *habeas* case, as we have said, for over 19 months.

Judicial economy can no longer justify delaying action in this case. Mr. Aamer has no more time to wait. For just days short of a full year, longer than any other prisoner in Guantanamo Bay, Mr. Aamer has been sitting in solitary confinement. He is denied fresh air, subjected to sleep deprivation and temperature extremes and isolated from all his fellow prisoners. He is not permitted to have phone calls or visit with family. As Dr. James MacKeith, a forensic psychiatrist with 32-years experience as an expert witness in the field, states: “Mr Aamer’s mental and also perhaps his physical health is likely to be at risk, especially in the short term and perhaps in the longer term. This concern can only be satisfactorily resolved if a thorough medical examination and report on Mr Aamer is completed soon.” *See Exhibit 2, attachment A, Interim Medical Report of Dr. James MacKeith, September 6, 2006.*

Each day that passes without development in his case erodes petitioner’s belief that he will ever receive a fair hearing, and his faith in his lawyer, potentially damaging the attorney-client relationship beyond repair. On September 12, 2006, Mr. Aamer refused to see counsel for the first time in a dozen visits.

Under *Hamdan* and the Geneva Conventions, petitioner has a colorable claim for a reprieve from the conditions he faces. He should be permitted to seek that relief.

**The DTA is no Bar to Ruling on This (or any other) Motion**

Since the Court entered its stay, there have been two major intervening legal developments—namely, the passage of the 2005 Detainee Treatment Act (“DTA”) and the subsequent confirmation by the Supreme Court in *Hamdan*, that even after the DTA: 1) federal courts retain jurisdiction over pending habeas petitions and 2) prisoners in Guantánamo enjoy

enforceable rights under the Geneva Conventions. As Judge Kennedy has recognized, the *Hamdan* decision makes clear that this court has the power to proceed and consider the merits of this motion. The demands of justice make clear that Respondents must be ordered to adhere to the Geneva Conventions and remove Mr. Aamer from isolation.

The Supreme Court held in relevant part in *Hamdan* that “§1005(e)(1) [of the DTA] does not strip federal courts’ jurisdiction over cases pending on the date of the DTA’s enactment.” 126 S.Ct. at 2769 n. 15.

In so doing, the Court rejected respondents’ argument that, notwithstanding the absence of any statutory language dictating retroactive application of §1005(e)(1), the DTA stripped jurisdiction over all existing habeas petitions and allowed only highly restricted judicial review in the D.C. Circuit. *See id.* at 2763. Instead, the Supreme Court determined that the DTA’s statutory text and legislative history clearly mandated the opposite conclusion: that because Congress *had* provided explicitly for retroactive application of sections (e)(2) and (3), its failure to so provide for section (e)(1) meant that exercising jurisdiction over pending habeas petitions, like Salim Hamdan’s and the one at bar here, was appropriate. *See id.* at 2764 (citing *Lindh v. Murphy*, 521 U.S. 320, 326 (1997)).

The Supreme Court also explicitly rejected the government’s alternative contention: that the exclusive review provisions of §1005(e)(2) and (3) prevented the court from retaining jurisdiction over pending habeas petitions. *See id.* at 2768 (finding that exercising *habeas* jurisdiction over Hamdan’s challenge to the legitimacy of the commission presented no “dual jurisdiction” problem). Drawing a clear distinction between cases challenging final decisions of a military commission or a CSRT and those attacking the legitimacy of the procedures themselves, the court stated that “there is nothing absurd about a scheme under which pending

habeas actions—particularly those, like this one, that challenge the very legitimacy of the tribunals whose judgments Congress would like to have reviewed—are preserved, and more routine challenges to final decisions rendered by those tribunals are carefully channelled to a particular court and through a particular lens of review.” *Id.* at 2769.

**This Court Should Lift the Stay Because Petitioner Is Not Challenging the “Final Determination” of his CSRT but Rather the Very Legitimacy of the CSRT**

Having unequivocally lost the argument that (e)(1) stripped jurisdiction of all pending habeas cases, the Government in *Boumediene* (and, we anticipate, here) has, somewhat perplexingly, returned to its alternative argument—that Congress implicitly divested jurisdiction of pending petitions via the exclusive review provisions of §1005(e)(2) and (e)(3). *See* Respondents’ Supplemental Brief Addressing *Hamdan v. Rumsfeld* filed in *Boumediene v. Bush*, Case Nos. 05-5062-05-5064; 05-5095-05-5116 (filed Aug. 1, 2006) 2, 7. That contention failed in *Hamdan*, 126 S.Ct. at 2769, and it is similarly unavailing here.

While the *Hamdan* court left open the narrow question of whether exclusive jurisdiction would lie in the D.C. Circuit for pending habeas petitions, if any, “that do qualify as challenges to ‘final decisions’ within the meaning of subsection (e)(2) or (e)(3),” 126 S. Ct. at 2761 n. 14, this is not such a case. Like *Hamdan*, Mr. Aamer is not contesting the fact of his designation as an enemy combatant by the CSRT. *See Hamdan*, 126 S. Ct. at 2761, 2769 (noting *Hamdan* was determined to be an enemy combatant but was not challenging a “final decision” of his CSRT). Rather, Mr. Aamer denies the lawfulness of the CSRTs themselves. This squares cleanly with the Supreme Court’s holding that habeas petitions “that challenge the very legitimacy” of the government’s alternative review procedures must be allowed to proceed. *Id.* at 2769. The Supreme Court has already once rejected the Government’s strained attempt to conjure a habeas

repeal from the exclusive review language of sections 1005(e)(2) and (3). Respondents should not be permitted to use the very same argument to prolong Mr. Aamer's petition still further.

Mr. Aamer's case could not be a clearer challenge to the "legitimacy" of his imprisonment: he asserts that his ongoing detention and the conditions of his confinement, including the lack of any legally recognizable trial, violate numerous provisions of domestic and international law. His claims invoke, *inter alia*, the Eighth, Sixth, and Fifth Amendments, the Uniform Code of Military Justice, the common law of due process, the Geneva Conventions, the International Covenant on Civil and Political Rights, and the Alien Tort Statute. *See* Habeas Petition for Omar Deghayes, et al., *Deghayes v. Bush*, Case No. 04-2215 at 15-17 (filed Dec. 22, 2004). Mr. Aamer asserts that the President cannot, within the bounds of Article II, detain prisoners indefinitely, particularly under the terrible conditions of current confinement.

The Supreme Court has repeatedly recognized that *habeas* is the appropriate vehicle for Guantanamo prisoners to issue these challenges. *See, e.g., Rasul v. Bush*, 542 U.S. 466 (2004) (recognizing the habeas petitions filed by Guantanamo prisoners). In *Hamdan*, it determined that habeas challenges pending when the DTA was passed must be allowed to continue. 126 S.Ct. at 2769 n. 15. Mr. Aamer's petition must proceed.

### **CONCLUSION**

Respondents should not be permitted to reargue *Hamdan* in a thousand minute permutations in every prisoner's habeas case, trotting out every conceivable section of the DTA in an attempt to find an alternative repeal of habeas jurisdiction. *See Kurnaz v. Bush*, 2005 U.S. Dist. LEXIS 6560 (D.D.C. 2005) ("the Court must also have authority to preserve this jurisdiction if it can be shown that respondents are acting to circumvent it," citing All Writs Act, 28 U.S.C. § 1651(a)); *Abu Ali v. Ashcroft*, 350 F. Supp. 2d 28, 54 (D.D.C. 2004) (federal courts

“may and should take such action as will defeat attempts to wrongfully deprive parties” of their right to sue) (internal citation omitted). After *Hamdan*, the law is now sufficiently settled—and petitioner’s situation sufficiently dire—to make further delay on the merits of his case unwarranted. The fundamental importance of the Great Writ mandates that he be allowed to proceed.

The interests of judicial economy must, after a time, yield to a litigant’s right to have his day in court. The equities at play in a habeas case are especially sensitive in this regard. In light of *Hamdan*, of the deteriorated conditions for Mr. Aamer, and of the exceptional length of time petitioner has already been required to wait, this Court should lift the stay to avoid any further prejudice to petitioner’s ability to present his case.

Common Article Three clearly applies here and after *Hamdan*, is clearly actionable by individuals. See also, *Application of Yamashita*, 327 U.S. 1, 24, 66 S.Ct. 340 (1946) (denying habeas relief but finding Geneva Convention can be raised by “persons who are subjected to judicial proceedings for offenses committed while prisoners of war”). Respondents are violating Common Article Three in their treatment of Mr. Aamer. They have not responded to counsel’s attempts at an informal resolution. The Court should intervene and issue an injunction.

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Accordingly, and for the foregoing reasons, this court should lift the stay in petitioner's case and order Mr. Aamer released from isolation.

Respectfully submitted,

Date: September 19, 2006

  
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Counsel for Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that I have filed this pleading electronically with the Court via ECF. The ECF system automatically serves a copy on counsel for Respondents.

Done this 19<sup>th</sup> day of September, 2006.

\_\_\_\_\_/s\_\_\_\_\_  
Zachary Philip Katznelson

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

<b>SHAKER AAMER,</b>	)	
	)	
<i>Petitioner/Plaintiff,</i>	)	
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<b>v.</b>	)	<b>Civ. No. 04-cv-2215 (RMC)</b>
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<b>GEORGE W. BUSH, et al.,</b>	)	
	)	
<i>Respondents/Defendants.</i>	)	
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**[PROPOSED] ORDER**

After considering the parties' submissions and arguments regarding Petitioner's Motion for a Preliminary Injunction, the Court hereby grants the motion.

The Court orders that:

1. Respondents shall immediately release Mr. Aamer from solitary confinement, end any and all abuse of Mr. Aamer, including but not limited to subjecting him to temperature extremes, subjecting him to excessive physical force, subjecting him to 24-hour lighting, subjecting him to excessive noise, subjecting him to sleep deprivation, denying him access to fresh air, and denying him contact with his fellow prisoners.
2. At no time whatsoever may Respondents act in violation of Common Article Three of the Geneva Conventions toward Mr. Aamer.

IT IS SO ORDERED.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

Date: \_\_\_\_\_