

U.S. Department of Justice  
United States Marshals Service

**PROCESS RECEIPT AND RETURN**

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF Yaser Esam Hamdi, Et al	COURT CASE NUMBER 2:02cv439
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DEFENDANT Donald Rumsfeld, et al	TYPE OF PROCESS 6/11/02 order
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<b>SERVE</b> → <b>AT</b>	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO BE SEIZED OR CONDEMNED U.S. Attorney	<b>FILED</b> JUN 12 2002 CLERK, U.S. DISTRICT COURT NORFOLK, VA
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) 8000 World Trade Center, 101 W. Main St., Norfolk, VA	

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:  Clerk, U.S. District Court U.S. Courthouse, Room 193B 600 Granby Street Norfolk, VA 23510	Number of process served with this Form - 285 CLERK, U.S. DISTRICT COURT NORFOLK, VA	Number of parties to be served in this case	Check for service on U.S.A.
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SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):  
Fold

*(Faint handwritten notes and stamps)*

Signature of Attorney or other Originator requesting service on behalf of: Per 6/11/02 order	<input type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER 222-7201	DATE 6/11/02
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**SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE**

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process 1	District of Origin No. 83	District to Serve No. 83	Signature of Authorized USMS Deputy or Clerk <i>Joyce Burton</i>	Date 6-12-02
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I hereby certify and return that  I have personally served,  I have legal evidence of service,  I have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above) <i>MORGAN ENGLISH, RECEPTIONIST</i>	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.
Address (complete only if different than shown above)	Date of Service 6-12-02
	Time 1:00 pm
	Signature of U.S. Marshal or Deputy <i>J.M.A.</i>

Service Fee <i>40.00</i>	Total Mileage Charges (including endeavors) <i>.18</i>	Forwarding Fee	Total Charges <i>40.18</i>	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
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REMARKS:

U.S. Department of Justice  
United States Marshals Service

**PROCESS RECEIPT AND RETURN**

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF Yaser Esam Hamdi, et al	COURT CASE NUMBER 2:02cv439
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DEFENDANT Donald Rumsfeld, et al	TYPE OF PROCESS 6/11/02 ORDER
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<b>SERVE</b> ➔ <b>AT</b>	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN Commander W.R. Paulette	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <b>FILED</b>                  JUN 12 2002                  CLERK, U.S. DISTRICT COURT                  NORFOLK, VA             </div>
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) Norfolk Naval Station Brig, 8251 Ingersoll St., Norfolk, VA	

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:  Clerk, U.S. District Court U.S. Courthouse, Room 193B 600 Granby Street Norfolk, VA 23510	Number of process to be served with this Form - 285	<div style="border: 1px solid black; padding: 5px; display: inline-block;">                 285             </div>
	Number of parties to be served in this case	
	Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):  
 Fold Fold

Signature of Attorney or other Originator requesting service on behalf of: At the direction of Judge Robert G. Doumar	<input type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER clerk 222-7201	DATE 6/11/02
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**SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE**

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process 1	District of Origin No. 83	District to Serve No. 83	Signature of Authorized USMS Deputy or Clerk Jaye Burton	Date 6-12-02
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I hereby certify and return that I  have personally served,  have legal evidence of service,  have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

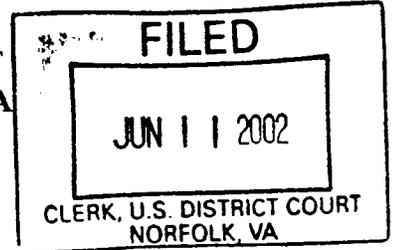
Name and title of individual served (if not shown above)	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.
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Address (complete only if different than shown above)	Date of Service 6/12/02	Time 12:45 pm
	Signature of U.S. Marshal or Deputy M. Stull	

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
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REMARKS:

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION



**YASER ESAM HAMDI, and  
ESAM FOUAD HAMDI,  
As Next Friend of Yaser Esam Hamdi,**

**Petitioners,**

**v.**

**CIVIL ACTION NO. 2:02cv439**

**DONALD RUMSFELD, and  
COMMANDER W.R. PAULETTE,**

**Respondents.**

**ORDER**

Currently before the Court is the matter of a third petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, filed on behalf of the Petitioner, Yaser Esam Hamdi, who is currently being held incommunicado in the brig of the naval base in Norfolk, Virginia.

The instant petition has been filed by Hamdi's father, Esam Fouad Hamdi, as next friend. The Supreme Court in Whitmore v. Arkansas, 495 U.S. 149 (1990), established a two prong test for whether someone is a proper next friend for purposes of filing a habeas corpus petition on behalf of a person in custody. "First, a 'next friend' must provide an adequate explanation--such as inaccessibility, mental incompetence, or other disability--why the real party in interest cannot appear on his own behalf to prosecute the action." Id. at 163. The reason why the real party in interest cannot appear on his own behalf in this case is obvious – Yaser Esam Hamdi is being held incommunicado on a military installation within the Eastern District of Virginia. The second prong

2:02cv439-3  
FILED  
JUN 11 2002  
CLERK, U.S. DISTRICT COURT  
NORFOLK, VA  
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requires that “the ‘next friend’ must be truly dedicated to the best interests of the person on whose behalf he seeks to litigate the action” and that dedication is generally shown by the next friend having “some significant relationship with the real party in interest.” Id. The Petitioner’s father, who has attempted for some months to arrange for his son to meet with an attorney, clearly qualifies under this standard. Therefore, having found that the Petitioner’s father, Esam Fouad Hamdi, is a proper next friend of the Petitioner, the Court hereby **ORDERS** the petition filed.

The instant petition is the third filed on behalf of Hamdi. The prior two cases (2:02cv348 and 2:02cv382) have been consolidated because they arise out of the exact same circumstance, Hamdi’s confinement, and involve the same parties, Hamdi and the United States government. For the same reason, the Court hereby **ORDERS** that those cases be consolidated with the instant case. It further appearing to the Court that the matters involved in this case are currently on appeal before the United States Court of Appeals for the Fourth Circuit, the Court **ORDERS** that this case be consolidated with those cases subject to the United States Court of Appeals for the Fourth Circuit allowing such consolidation.

Furthermore, it is appropriate to appoint counsel in this case, specifically the Federal Public Defender’s Office. The petition includes an affidavit by Esam Fouad Hamdi that his son is without funds to retain his own counsel, and that the father is also unable to pay for an attorney for his son. The Court hereby finds that this affidavit is sufficient evidence of financial eligibility to warrant the appointment of counsel under 28 U.S.C. § 3006A. As to the identity of counsel, Frank Dunham and/or Larry Shelton of the Federal Public Defenders Office have both been appointed counsel for Hamdi in the already pending consolidated case, and given their familiarity with this case and their eagerness to proceed as Hamdi’s attorneys, this Court sees no reason to appoint another counsel.

Appeals for the Fourth Circuit allows the consolidation of this matter with the other pending cases, until further Order of the Court of Appeals.

The Clerk of the Court is **DIRECTED** to forward copies of this Order, both by fax and by U.S. mail, to all counsel of record in the consolidated action, to Gregory Garre of the U.S. Department of Justice, to the United States Court of Appeals for the Fourth Circuit, and to Yaser Esam Hamdi.

The Clerk is further **DIRECTED** to forward a copy of this Order to the United States Marshal for service of this Order upon the Respondents. The United States Marshal's office is hereby **DIRECTED** to serve this Order upon the Respondents.

**IT IS SO ORDERED.**

/S/ Robert G. Doumar

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

June 11, 2002 <sup>JK</sup>