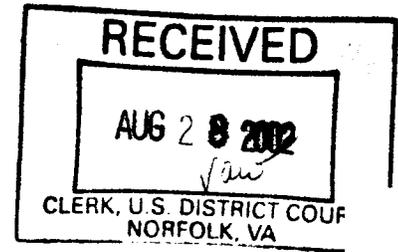


UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION



Yaser Esam Hamdi  
Plaintiff

v.

Donald Rumsfeld  
Defendant  
and  
Friends of Immigration Law Enforcement  
Defendant-intervenor

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Civil Action No. 2:02CV439  
Hon. Robert G. Doumar  
U.S. District Court

**RESPONSE TO PETITIONER'S RESPONSE TO FRIENDS  
OF IMMIGRATION LAW ENFORCEMENT'S MOTION TO INTERVENE**

The Office of the Federal Public Defender has responded to the Friends of Immigration Law Enforcement (FILE)'s motion to intervene in the above-captioned case asking the court to deny the motion. If the Court decides in favor of the Petitioner, and denies the motion to intervene, the Court can and should treat FILE's complaint in intervention, which is already in its possession, as a filing by an amicus curiae. The Petitioner also agrees, writing in its response: "[F]inally, there is no need to permit intervention when the movant can express its views by way of an amicus brief or in another lawsuit."

Petitioner is wrong, however, to assert that granting the motion to intervene would raise a substantial risk of delay. It is precisely in the interest of clarity and speed that fundamental questions of fact should be decided correctly and at the earliest possible date.

In the present case, the question involves citizenship in the United States, and is a case with wide-ranging and profound implications. If the Court allows the U.S. citizenship of Yaser Hamdi to stand as a matter of fact, and the fact is in error, the consequences might prove enormous and extremely difficult to rectify. FILE is so situated that disposition of the matter negatively might impair its ability to protect its interests, which are to see immigration law properly enforced.

Whether Hamdi *is* a citizen is a question of fact prior to whether he has all the rights of a citizen. As FILE has shown in its complaint, it is far from settled that persons born in Hamdi's circumstances are citizens, and, in fact, Petitioner's neglect to cite any evidence or argument to the contrary might lend weight to FILE's central claim that parties are failing to make fundamental constitutional arguments.

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**Wherefore**, the Friends of Immigration Law Enforcement requests that this Court allow it to intervene, or, if intervention is denied, treat the complaint in intervention as a filing by an amicus curiae.

Respectfully Submitted,



Craig Nelsen  
Director  
Friends of Immigration Law Enforcement  
PO Box 8122  
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402 341 0565

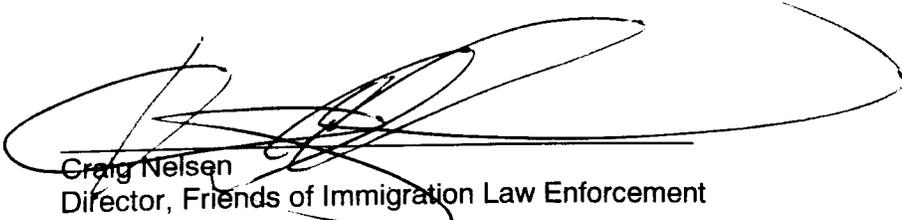
### **Certificate of Service**

I hereby certify that a copy of this response has been mailed certified, return receipt requested, on this 27th day of August 2002, to:

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