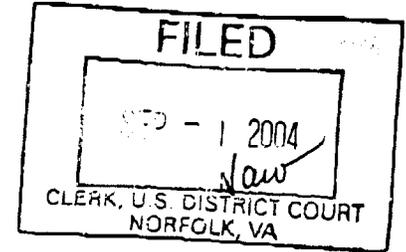


FILED: August 30, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7338
(CA-02-439-2)



YASER ESAM HAMDI; ESAM FOUAD HAMDI, as next friend of Yaser Esam Hamdi,

Petitioners - Appellees,

versus

DONALD RUMSFELD; W. R. PAULETTE, Commander,

Respondents - Appellants.

CENTER FOR CONSTITUTIONAL RIGHTS; RICHARD L. ABEL, Connell Professor of Law, University of California at Los Angeles; WILLIAM J. ACEVES, Professor of Law, California Western School of Law; BRUCE A. ACKERMAN, Sterling Professor of Law & Political Science, Yale University; LEE A. ALBERT, Professor of Law, University at Buffalo Law School, The State University of New York; BARBARA BADER ALDAVE, Loran L. Stewart Professor of Corporate Law, University of Oregon School of Law; ALICIA ALVAREZ, Clinical Associate Professor of Law, DePaul University School of Law; DIANE MARIE AMANN, Professor of Law, University of California, Davis, School of Law; MICHELLE J. ANDERSON, Associate Professor of Law, Villanova University School of Law; FRAN ANSLEY, Professor of Law, University of Tennessee College of Law; ELVIA R. ARRIOLA, Associate Professor of Law, Northern Illinois University College of Law; FRANK ASKIN, Professor of Law and Robert Knowlton Scholar, Rutgers School of Law at Newark; MILNER S. BALL, Caldwell Professor of Constitutional Law, University of Georgia School of Law; JON BAUER, Clinical Professor of Law and Director, Asylum & Human Rights Clinic, University of Connecticut School of Law; PAUL

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UNIVERSALIST SERVICE COMMITTEE, Denise Moorehead, Deputy Director of Program; PUERTO RICO LEGAL DEFENSE AND EDUCATION FUND, INCORPORATED, Foster Maer, Acting Legal Director; NATIONAL COALITION TO PROTECT POLITICAL FREEDOM, Kit Gage, President; FIRST AMENDMENT FOUNDATION, Kit Gage, Director; NATIONAL LAWYER'S GUILD/MAURICE & JANE SUGAR LAW CENTER FOR ECONOMIC & SOCIAL JUSTICE, Julie Hurwitz, Executive Director; CIVIL LIBERTIES MONITORING PROJECT, Jared Rossman, President; ASSOCIATION OF LEGAL AID ATTORNEYS, U.A.W. LOCAL 2325, Michael Letwin, Esq., President; PARTNERSHIP FOR CIVIL JUSTICE, Mara Verheyden-Hilliard, co-founder; TRIAL LAWYERS FOR PUBLIC JUSTICE, Rebecca Epstein, Staff Attorney; FREEDOM SOCIALIST PARTY, Val Carlson; JEWISH ALLIANCE FOR LAW AND SOCIAL ACTION, Andrew M. Fischer; THE INNOCENCE PROJECT AT THE BENJAMIN N. CARDOZO SCHOOL OF LAW, Nina Morrison, Esq., Executive Director; ELLA BAKER CENTER FOR HUMAN RIGHTS, Van Jones, National Executive Director; AMERICAN FRIENDS SERVICE COMMITTEE, Mary Ellen McNish, General Secretary; REBER BOULT, Esq., Albuquerque, New Mexico; HUNTER GRAY; JOHN MAGE, Esq., New York, New York; DOUGLAS N. MASTERS, Esq., Chicago, Illinois; LAURA BETH NIELSEN, Research Fellow, American Bar Foundation; LEONARD WEINGLASS, Esq., New York, New York; CAMILLE WHITWORTH, Esq., Austin, Texas; MITCHELL ZIMMERMAN, Esq., Co-Coordinator, Law Professors for the Rule of Law; NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS; AMERICAN CIVIL LIBERTIES UNION FOUNDATION; AMERICAN CIVIL LIBERTIES FOUNDATION OF VIRGINIA;

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Amici Curiae in support
of Appellants.

O R D E R

On August 6, 2004, this court issued an order remanding this case to the U.S. District Court for the Eastern District of Virginia for further proceedings consistent with the Supreme Court's decision in Hamdi v. Rumsfeld, 124 S. Ct. 2633 (2004). The mandate from that order has not issued, and will not issue until September 27, 2004, under the Federal Rules of Appellate Procedure. See Fed. R. App. P. 40(a)(1); 41(b). Until that mandate issues, the district court is without jurisdiction to proceed in this matter. See United States v. Montgomery, 262 F.3d 233, 239 (4th Cir. 2001) ("A district court does not regain jurisdiction until the issuance of the mandate by the clerk of the court of appeals.") (quoting United States v. Rodgers, 101 F.3d 247, 251 (2d Cir. 1996)). Accordingly, all proceedings before the district court are hereby stayed until the mandate from this court issues in the normal course.

Entered at the direction of the panel composed of Chief Judge Wilkins, Judge Wilkinson, and Judge Traxler.

For the Court

/s/ Patricia S. Connor

Clerk