



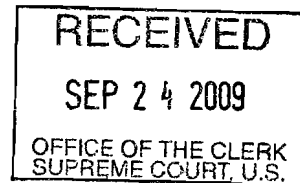
U.S. Department of Justice
Office of the Solicitor General

Washington, D.C. 20530

September 23, 2009

Honorable William K. Suter
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Kiyemba v. Obama, No. 08-1234



Dear Mr. Suter:

I am writing to advise the Court of a recent development with respect to eight of the petitioners in the above-captioned case. The petition for a writ of certiorari in this case was filed on April 3, 2009, and the petition was scheduled to be considered at the Court's conference on June 29, 2009.

Petitioners are aliens who were previously detained as enemy combatants at Guantanamo Bay Naval Base, and who have since been located at Guantanamo Bay in a non-enemy combatant status. Petitioners understandably do not wish to return to their home country, because they fear inhumane treatment there, and the United States government therefore has been attempting to locate appropriate alternate countries for resettlement. The question presented is whether a federal court exercising its habeas corpus jurisdiction may order the United States government to bring petitioners into the United States for release, outside of the framework of the federal immigration laws.

In a letter dated June 11, 2009, the government advised this Court that four of the fourteen petitioners had been resettled in Bermuda. As a result, ten of the petitioners remain at Guantanamo Bay. (There are three other Uighur detainees who remain at Guantanamo Bay. They did not join the petition in the above-captioned case, see Pet. ii n.2, and later filed a letter stating that they "wish to remain Petitioners in this [C]ourt.")

I now write to advise the Court that the government has located an appropriate country -- Palau -- for the resettlement of a number of the remaining Uighur petitioners. The government of Palau has agreed to accept twelve of the thirteen Uighur detainees remaining at Guantanamo Bay, if those detainees are willing to be

resettled there. (That is, Palau will accept nine of the ten Uighur petitioners and all three of the other Uighur detainees.)

On September 16, 2009, the Department of State notified Congress in a classified submission that the U.S. government intends to transfer eight of the petitioners to Palau, with the transfer to occur no earlier than October 1. Although the Department of State hopes that all eight of these individuals will agree to be resettled in Palau, at this point six of them have made that commitment. Discussions with the remaining two of the eight petitioners are ongoing. The U.S. government has every reason to believe that at least six of the petitioners shortly will be resettled in Palau, although it is impossible to be certain until they actually board the plane. The date on which the plane is scheduled to depart Guantanamo for Palau is classified.

Once the petitioners specified in the notice to Congress are transferred to Palau, they will have obtained the relief they sought (release from the custody of the United States) and the petition will be moot with respect to them. See, e.g., Spencer v. Kemna, 523 U.S. 1, 7 (1998). These petitioners' planned resettlement demonstrates the government's continued commitment to resettle all of the petitioners in the case, in accord with Executive Order 13,492. The United States is working diligently to find an appropriate place to resettle the remaining Uighur detainees.

Sincerely,


Elena Kagan
Solicitor General

cc: See Attached Service List

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