



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

June 25, 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:

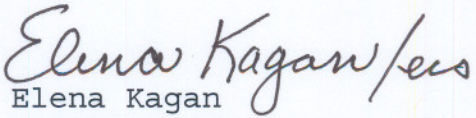
I am writing to advise the Court of a recent development with respect to the above-captioned case. The petition for a writ of certiorari in this case was filed on April 3, 2009, and the petition is scheduled to be considered at the Court's conference on June 25, 2009.

Petitioners are aliens who were previously detained as enemy combatants at Guantanamo Bay Naval Base, and who have since been 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 identify 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.

On pages 27-28 of its brief in opposition to certiorari, the government noted that Congress had focused its attention on the closing of the detention facility at Guantanamo Bay in a pending supplemental defense appropriations bill. I am writing to make sure that the Court is aware of a further factual development. The conference report on the bill was agreed to by the House of Representatives on June 16, 2009, and the Senate on June 18, 2009, and the bill was signed into law by the President on June 24, 2009. See Supplemental Appropriations Act, 2009, Pub. L. No. 111-____, 111st Cong., 1st Sess., 123 Stat. ____ (H.R. 2346, 111th Cong., 1st Sess. (2009)). As enacted, the Act prohibits the use of any funds made available by that Act or any prior Act to release or to transfer (with an exception in certain circumstances for

prosecution or detention during legal proceedings) any individual detained at Guantanamo Bay into the continental United States, Alaska, Hawaii, or the District of Columbia. See id. § 14103. It also requires the President to report periodically to Congress on the status of Guantanamo Bay detainees and plans for their transfer. See id. § 319. A copy of the Act is attached.

Sincerely,


Elena Kagan
Solicitor General

cc: See Attached Service List

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