No. 08-368

In the Supreme Court of the United States

ALI SALEH KAHLAH AL-MARRI, PETITIONER

v.

DANIEL SPAGONE, UNITED STATES NAVY COMMANDER, CONSOLIDATED NAVAL BRIG

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO VACATE THE JUDGMENT BELOW AND REMAND WITH DIRECTIONS TO DISMISS THE CASE AS MOOT

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MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO VACATE THE JUDGMENT BELOW AND REMAND WITH DIRECTIONS TO DISMISS THE CASE AS MOOT

Pursuant to Rule 21.2(b) of the Rules of this Court, the Acting Solicitor General, on behalf of respondent, respectfully moves to dismiss the writ of certiorari in this case, or, in the alternative, to vacate the judgment of the court of appeals and remand with directions to dismiss the case as moot. The Court granted a writ of certiorari in this case in order to resolve the question whether the President has statutory and constitutional authority to detain petitioner as an enemy combatant. Petitioner raises that question by means of a habeas petition challenging his detention, in which he seeks an order "directing Respondent to charge Petitioner with a criminal offense or to release him." C.A. App. 25. Pe-

titioner has now received the very relief he seeks. On February 26, 2009, petitioner was indicted, and on February 27, 2009, the President ended petitioner's detention as an enemy combatant by ordering that he be transferred to the control of the Attorney General to face the criminal charges against him. Because the military detention challenged by petitioner has ended, no live controversy remains in this case.

STATEMENT

1. On June 23, 2003, the President ordered the Secretary of Defense (Secretary) to detain petitioner in military custody, on the ground that petitioner "is, and at the time he entered the United States in September 2001 was, an enemy combatant." Pet. App. 466a. The President determined that "[i]t is in the interest of the United States that the Secretary of Defense detain [petitioner] as an enemy combatant," and directed the Secretary to assume custody of petitioner "and to detain him as an enemy combatant." *Id.* at 467a.

Petitioner filed a petition for a writ of habeas corpus in the United States District Court for the District of South Carolina, challenging his detention "in military custody * * * without charge." C.A. App. 13. He asserted that "the military may not detain an individual seized within the United States without charge," *id.* at 23, and that his "detention * * * by the military is in violation of the Constitution and laws of the United States," *id.* at 22. As relief for his allegedly illegal detention, petitioner sought an order "directing Respondent to charge Petitioner with a criminal offense or to release him." *Id.* at 25.

The district court permitted petitioner to challenge the basis for his military detention within the framework

outlined by the plurality opinion in *Hamdi* v. *Rumsfeld*, 542 U.S. 507, 533-534 (2004). C.A. App. 186-193. At the conclusion of those proceedings, the court upheld the legality of petitioner's detention and dismissed his habeas petition. Pet. App. 448a-465a; *id.* at 402a-426a. After a divided panel of the court of appeals reversed, holding that the President lacks the authority to detain petitioner as an enemy combatant, *id.* at 321a-322a, the court of appeals granted rehearing en banc. The en banc court upheld the President's authority to detain petitioner in military custody as an enemy combatant, but remanded the case to the district court to allow petitioner an additional opportunity to challenge his enemy-combatant designation. *Id.* at 6a-7a.

Petitioner then sought review in this Court, raising a single question: whether "the Authorization for Use of Military Force (AUMF), 115 Stat. 224, authorize[s]—and if so does the Constitution allow—the seizure and indefinite military detention of a person lawfully residing in the United States, without criminal charge or trial, based on government assertions that the detainee conspired with al Qaeda to engage in terrorist activities." Pet. i. The Court granted a writ of certiorari on that question. 129 S. Ct. 680 (2008). Petitioner filed his brief on the merits on January 21, 2009, and the brief for respondent is due on March 23, 2009. Oral argument is scheduled for April 27, 2009.

2. On January 22, 2009, the President signed an order directing the Attorney General, the Secretary of Defense, the Secretary of State, and the Director of National Intelligence to undertake "a prompt and thorough review of the factual and legal basis for [petitioner's] continued detention, and identify and thoroughly evaluate alternative dispositions." Memorandum for the At-

torney General: Review of the Detention of Ali Saleh Kahlah al-Marri (Jan. 22, 2009) <http://www.whitehouse.gov/the_press_office/Review_of_the_Detention_of_Ali_ Saleh_Kahlah>.

On February 26, 2009, petitioner was indicted in the United States District Court for the Central District of Illinois on charges of providing, and conspiring to provide, material support and resources to a foreign terrorist organization, in violation of 18 U.S.C. 2339B(a)(1). App., *infra*, 2a-4a. The indictment was unsealed on February 27, 2009.

On February 27, 2009, the President determined that "it is in the interest of the United States that [petitioner] be released from detention by the Secretary of Defense and transferred to the control of the Attorney General for the purpose of criminal proceedings against him." App., *infra*, 1a. The President's Memorandum to that effect made clear that it "supersede[d]" the President's June 23, 2003, directive to the Secretary to detain petitioner in military custody as an enemy combatant. *Ibid.* The Memorandum directed the Secretary to release petitioner from the control of the Department of Defense and transfer him to the control of the Attorney General upon the Attorney General's request. The Memorandum also provided that, upon such transfer, the authority of the Secretary to detain petitioner pursuant to the President's June 23, 2003, order "shall cease." *Ibid.*

Simultaneously with the filing of this motion, the government is also filing an application in this Court, requesting that the Court acknowledge petitioner's release from military custody and transfer to civilian cus-

tody in order to face the criminal charges against him, or, in the alternative, authorize such transfer.[1]

ARGUMENT

This Court granted a writ of certiorari in this case to address the question raised by petitioner's habeas petition and resolved by the court of appeals below: whether the President has the authority to order that petitioner be detained in military custody as an enemy combatant without criminal charges or trial. Because petitioner has now been charged with criminal offenses and ordered released from that military detention, this case is moot, and further review would be inconsistent with the jurisdictional requirements of Article III. Respondent therefore respectfully submits that this Court should dismiss the writ of certiorari or, in the alternative, vacate the judgment below and remand with directions to dismiss the case as moot.

1. Under Article III of the Constitution, the federal courts lack jurisdiction to entertain a case that no longer presents a live controversy. See, *e.g.*, *Spencer* v. *Kemna*, 523 U.S. 1, 7 (1998); *St. Pierre* v. *United States*, 319 U.S. 41, 42 (1943) (per curiam). "This means that, throughout the litigation, the plaintiff 'must have suf-

[1] The government undertook a similar process in 2005, when the President ordered that Jose Padilla, who had been held in military custody as an enemy combatant, should be transferred to the Attorney General's custody to face newly instituted criminal charges. Because Padilla's certiorari petition challenging the President's authority to detain petitioner in military custody was pending before this Court at the time, the government sought acknowledgment of the release and transfer from the court of appeals. After that court denied relief, this Court granted the government's application. See *Hanft* v. *Padilla*, 546 U.S. 1084 (2006) (No. 05A578). This Court later denied certiorari. See *Padilla* v. *Hanft*, 547 U.S. 1062 (2006).

fered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.'" *Spencer*, 523 U.S. at 7 (quoting *Lewis* v. *Continental Bank Corp.*, 494 U.S. 472, 477 (1990)). The institution of criminal charges against petitioner, and the President's determination that petitioner should be released from military custody and transferred to civilian custody to face the charges, grants petitioner all of the relief that he sought in his habeas petition. As a result, no live controversy exists in this case.

Petitioner's habeas petition is explicitly and exclusively addressed to the fact that he "is being held in *military* custody * * * without charge." C.A. App. 13 (emphasis added). In addition, each of the claims in the habeas petition is addressed to or is necessarily dependent upon petitioner's *military* detention as an enemy combatant. *Id.* at 21-24. And the primary relief that petitioner seeks is an order "directing Respondent to charge Petitioner with a criminal offense or to release him." *Id.* at 25.[2] As a result, the court of appeals addressed only the President's authority "to detain [petitioner] as an enemy combatant," and the ancillary question of the procedures that should be afforded petitioner in challenging his enemy combatant designation. Pet. App. 6a-7a. Similarly, the question on which this Court granted a writ of certiorari is limited to whether the Authorization for the Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224, and the Constitution permit peti-

[2] The other relief that petitioner sought was directed to the conditions of his military detention—and those requests become moot upon his release from that detention. C.A. App. 25 (seeking access to counsel and a hearing at which to challenge his detention as an enemy combatant).

tioner's "indefinite *military* detention." Pet. i (emphasis added). And petitioner has consistently maintained in his briefing before this Court that the government should charge him with a crime rather than continue his military detention. See Pet. Br. 57 ("If the government wishes to imprison Petitioner, it must charge him and try him in our civilian courts."); Pet. 33.

The result of the President's determination that petitioner's military detention "shall cease," App., *infra*, 1a, is that the predicate for this habeas action—and the question presented before this Court—no longer exists. On February 26, 2009, petitioner was indicted for providing, and conspiring to provide, material support and resources to a foreign terrorist organization. *Id.* at 2a-4a. In addition, on February 27, 2009, the President determined that "it is in the interest of the United States that [petitioner] be released from detention by the Secretary of Defense and transferred to the control of the Attorney General for the purpose of criminal proceedings against him." *Id.* at 1a. The President's February 27, 2009, Memorandum expressly "supersedes" the June 23, 2003, directive to the Secretary of Defense to detain petitioner in military custody as an enemy combatant. It also mandates that upon petitioner's transfer from military to civilian custody, the authority of the military to detain him as an enemy combatant "shall cease." *Ibid.* The President's February 27, 2009, Memorandum therefore explicitly eliminates the directive that provided the authority to detain petitioner as an enemy combatant.

Because petitioner has been criminally charged and the President has directed that petitioner's military detention "shall cease," petitioner has received precisely the relief that he sought in the habeas petition, C.A.

App. 25. It is well established that where a claimant receives the relief he seeks, there is no longer a live controversy, and the case is moot.[3] See *Spencer*, 523 U.S. at 7; *Weinstein* v. *Bradford*, 423 U.S. 147, 148 (1975) (per curiam); *Clayton* v. *International Union, United Auto. Workers of Am.*, 451 U.S. 679, 692 (1981).

Because petitioner's habeas action no longer meets the core jurisdictional requirements of Article III, there is "no longer a subject matter on which the judgment of this Court could operate." *St. Pierre*, 319 U.S. at 42. The Court's resolution of the question presented to it—whether petitioner's military detention is authorized by the AUMF and the Constitution—would be no more than an abstract pronouncement on a set of facts that no longer applies to petitioner. See *Padilla* v. *Hanft*, 547 U.S. 1062, 1063-1064 (2006) (Kennedy, J., concurring in denial of certiorari) (explaining that Padilla's release from military detention to face criminal charges ren-

[3] Petitioner will not suffer any collateral consequences that prevent his case from being moot despite his release. See *Spencer*, 523 U.S. at 7, 13-14 (petitioner must demonstrate "concrete and continuing injury other than the now-ended incarceration * * * if the suit is to be maintained"). Petitioner's transfer accords him all the relief he seeks in his habeas petition, and any alleged continuing disabilities arising from his detention are necessarily "generalized and hypothetical," and therefore insufficient to support jurisdiction. *Id.* at 10; *id.* at 14-16 & n.8 (holding that potential adverse consequences in future criminal proceedings, as well as reputational injury, are insufficient); see *Qassim* v. *Bush*, 466 F.3d 1073, 1076-1077 (D.C. Cir. 2006) (finding no collateral consequences where plaintiffs were released from military detention at Guantanamo Bay). And to the extent that petitioner attempts to argue that the hypothetical possibility of future military detention might affect his defense of the criminal charges against him, that potential consequence is wholly speculative, given the courts' ample ability to address such concerns should they arise. See *Padilla*, 547 U.S. at 1063 (Kennedy, J., concurring in denial of certiorari).

dered Court's evaluation of his detention "hypothetical"); see also *Lewis* v. *Continental Bank Corp.*, 494 U.S. 472, 478 (1990). This Court should therefore find that this case is moot.[4] *St. Pierre*, 319 U.S. at 43.

2. This case does not fall within the narrow exceptions to the mootness doctrine for cases involving voluntary cessation of a challenged action or actions that are capable of repetition yet likely to evade review. Petitioner cannot demonstrate that there is any non-speculative possibility that he will be returned to military detention, and in any event, that hypothetical possibility does not provide a basis for reviewing the legality of potential future custody at this time.

a. Petitioner may not rely on the rule that voluntary cessation of challenged conduct ordinarily does not moot a case. That principle applies only where the party asserting mootness is unable to demonstrate that "there is no reasonable expectation" that the injury of which the petitioner complains will again arise. *United States* v. *W.T. Grant Co.,* 345 U.S. 629, 633 (1953) (citation omitted). Where a public entity voluntarily discontinues a challenged policy, the Court has often concluded that there is "no reasonable expectation that the wrong will be repeated." *Preiser* v. *Newkirk*, 422 U.S. 395, 402 (1975) (rejecting application of voluntary-cessation rule where plaintiff received the prison transfer that his suit requested); *County of Los Angeles* v. *Davis*, 440 U.S. 625, 632 (1979) (finding case moot where there was no "reason to believe * * * that petitioners would significantly alter their present hiring practices if the injunc-

[4] The Court's "established practice" where a case becomes moot pending review is to vacate the judgment below and remand with instructions that the case be dismissed. *United States* v. *Munsingwear, Inc.*, 340 U.S. 36, 39 (1950). Such a course may be appropriate here.

tion were dissolved"). Only where there is some non-speculative reason to believe that the party asserting mootness will revert to its challenged conduct does the voluntary-cessation doctrine prevent dismissal on mootness grounds. See *City of Mesquite* v. *Aladdin's Castle, Inc.*, 455 U.S. 283, 289 (1982) (defendant city had a history of responding to litigation by repealing legislation and later reinstating it); *Northeastern Fla. Chapter of the Associated Gen. Contractors* v. *City of Jacksonville*, 508 U.S. 656, 662 (1993) (city re-enacted substantially similar statute). Thus, a mere possibility that the dispute might recur in the future is insufficient to maintain a live controversy. See *City News & Novelty, Inc.* v. *City of Waukesha*, 531 U.S. 278, 283 (2001) (finding mootness despite an assertion that plaintiff "has never promised not to apply for a license in the future") (internal quotation marks omitted).

Here, the absence of a live controversy could not be clearer. In the context of a comprehensive review of military detention policies, the President has determined that it is in the national interest to end petitioner's military detention so that he can face criminal charges. That determination—as well as the President's order that the Secretary of Defense's detention authority "shall cease" upon the transfer of custody—establishes that the Court "ha[s] before [it] more than a '[m]ere voluntary cessation of allegedly illegal conduct.'" *Preiser*, 422 U.S. at 402 (citation omitted). Rather, the President's definitive announcement of a change in policy as to petitioner establishes that "there is now no reasonable expectation that the [alleged] wrong will be repeated." *Ibid.* (internal quotation marks omitted).

Even though petitioner might claim that there is still a theoretical possibility that he could be re-designated

an enemy combatant sometime in the future, that hypothetical contingency could not prevent this case from being moot. See *City News*, 531 U.S. at 283; *Commercial Cable Co.* v. *Burleson*, 250 U.S. 360, 362 (1919) (President's discretionary return of seized cable lines mooted dispute; despite presidential discretion with regard to future seizures, plaintiffs' "anticipations of possible danger" were speculative). Far from facing any immediate threat of re-designation and detention, petitioner will now undergo criminal proceedings in federal court.

Notably, in Padilla's case—the only previous occasion on which the President has ordered an enemy combatant transferred to civilian custody to face charges—Padilla was criminally tried, just as set forth in the presidential order. There is no reason to think that petitioner's case will not similarly proceed to adjudication in the criminal justice system. Any possibility that petitioner might be re-designated in the future is thus no more than a "subjective fear" that is "remote and speculative." *Preiser*, 422 U.S. at 403 (prison's failure to revert to challenged conduct in previous months weighed against applying voluntary cessation doctrine).

Moreover, it is very likely that even if petitioner were to be re-designated in the future, that re-designation would occur in a much different posture, under different circumstances. A number of factors relevant to this Court's consideration of the legality of petitioner's detention would likely be altered by the time any such re-designation took place. For instance, evidence adduced during petitioner's criminal proceeding could affect the factual basis for any future detention. More broadly, there is no guarantee that future detention would be implemented in the same manner or based on the same authority. Cf. *Padilla*, 547 U.S. at 1063 (Ken-

nedy, J., concurring in denial of certiorari) ("Any consideration of what rights [Padilla] might be able to assert if he were returned to military custody would be hypothetical, and to no effect, at this stage of the proceedings."). It is well settled that where a dispute might recur, if at all, under different circumstances, the Court should address any future dispute only if and when it arises. See, *e.g.*, *City News*, 531 U.S. at 285 & n.2; cf. *Two Guys from Harrison-Allentown, Inc.* v. *McGinley*, 366 U.S. 582, 588-589 (1961).

Finally, application of the voluntary-cessation doctrine is particularly inappropriate here, because "that rule traces to the principle that a party should not be able to evade judicial review, or to defeat a judgment, by temporarily altering questionable behavior." *City News*, 531 U.S. at 284 n.1. The President's Memorandum is manifestly not reflective of any attempt to "evade sanction," see *ibid.* (citation omitted); rather, it is the result of a thorough review of petitioner's detention and a presidential determination of the national interest. A rule designed to prevent manipulation of litigation should not be applied to considered action by the President of the United States involving uniquely sensitive questions of national security and military policy.

b. Nor does the narrow exception for actions "capable of repetition but evading review" prevent mootness here. That principle applies only in "exceptional situations" where (1) the challenged action would be too short in duration to be fully litigated prior to cessation or expiration; *and* (2) there is a reasonable expectation that the plaintiff will be subject to the same action again. *City of Los Angeles* v. *Lyons*, 461 U.S. 95, 109 (1983) (plaintiff must "make a reasonable showing that he will

again be subjected to the alleged illegality"); see *Spencer*, 523 U.S. at 17-18.

Here, petitioner cannot establish either prong of the capable-of-repetition exception. As noted, it is entirely speculative whether petitioner would ever again face military detention as an enemy combatant, and even if he did, there is no reason to believe that such detention would be too brief to allow him to challenge that detention in court. It is therefore implausible, to say the least, that any hypothetical future military detention of petitioner would somehow evade meaningful judicial review. Cf. *Spencer*, 523 U.S. at 18 (holding that habeas petitioner "ha[d] not shown (and we doubt that he could) that the time between parole revocation and expiration of sentence is always so short as to evade review").

3. Finally, strong prudential considerations counsel against further review of this case. Habeas corpus is "governed by equitable principles." *Munaf* v. *Green*, 128 S. Ct. 2207, 2220 (2008) (citation omitted). Prudential concerns therefore may lead a federal court to "forgo the exercise of its habeas corpus power." *Ibid.* (quoting *Francis* v. *Henderson*, 425 U.S. 536, 539 (1976)). Here, the President's action ends petitioner's military custody and effectively grants him all the relief he seeks in his habeas petition. Prudential concerns strongly suggest that the Court should not exercise its equitable powers to rule on the legality of petitioner's now-ended military detention.

Moreover, petitioner's habeas petition, and his arguments before this Court, raise extremely sensitive constitutional issues. It is axiomatic that courts should avoid the resolution of constitutional questions wherever possible. See, *e.g.*, *Kremens* v. *Bartley*, 431 U.S. 119, 133 (1977) (declining to adjudicate "important constitu-

tional issues" where named plaintiffs' claims had been mooted); *Ashwander* v. *TVA*, 297 U.S. 288, 346-348 (1936) (Brandeis, J., concurring). As the Court made clear in *Hamdi* v. *Rumsfeld*, that settled prudential principle applies with full force to enemy-combatant cases. 542 U.S. 507, 539 (2004) (plurality opinion) (instructing lower courts to "proceed with the caution that we have indicated is necessary in this setting" by "engaging in a [litigation] process that is both prudent and incremental").

Caution is particularly appropriate here because upon petitioner's release and transfer, there will be no remaining individuals detained as enemy combatants on United States soil. See Memorandum for the Attorney General: Review of the Detention of Ali Saleh Kahlah al-Marri, *supra*. Thus, there can be no argument that immediate review would provide guidance to any other similarly situated litigants. Nor can there be any certainty as to whether, or in what circumstances, questions like those raised by petitioner will arise again in the future: The President has ordered a comprehensive review of all military detention policies worldwide, and that review is yet to be concluded. See *ibid.*; see also Exec. Order No. 13,492, 74 Fed. Reg. 4897 (2009) (review of detention at Guantanamo Bay Naval Base); Exec. Order No. 13,493, 74 Fed. Reg. 4901 (2009) (review of detention policy options). This Court's review of petitioner's case would therefore be entirely hypothetical. See *Padilla*, 547 U.S. at 1063-1064 (Kennedy, J., concurring in denial of certiorari).

In previous instances in which intervening presidential action has rendered the dispute hypothetical or provided the petitioner with a potential avenue of relief, this Court has dismissed the writ of certiorari as improvi-

dently granted. See *Medellin* v. *Dretke*, 544 U.S. 660, 666-667 (2005). In all events, adjudication of the important and sensitive questions surrounding military detention should be addressed only if necessary, in the context of a live case involving concrete circumstances.

CONCLUSION

The writ of certiorari should be dismissed. In the alternative, the judgment below should be vacated and the case remanded with directions to dismiss the habeas corpus action as moot, or in the exercise of equitable discretion.

Respectfully submitted.

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FEBRUARY 2009

APPENDIX A

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release February 27, 2009

February 27, 2009

MEMORANDUM FOR THE
SECRETARY OF DEFENSE

SUBJECT: Transfer of Detainee to Control of the Attorney General

Based on the information available to me, * * * I hereby determine that it is in the interest of the United States that Ali Saleh Kahlah al-Marri be released from detention by the Secretary of Defense and transferred to the control of the Attorney General for the purpose of criminal proceedings against him.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States, I hereby direct you to transfer Mr. al-Marri to the control of the Attorney General upon the Attorney General's request. This memorandum supersedes the Presidential directive of June 23, 2003, addressed to the Secretary of Defense, which ordered the detention of Mr. al-Marri as an enemy combatant. Upon Mr. al-Marri's transfer to the control of the Attorney General, the authority to detain Mr. al-Marri provided to the Secretary of Defense in the June 23, 2003, order shall cease.

BARACK OBAMA

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

No. 09-CR-100*30*

UNITED STATES OF AMERICA, PLAINTIFF

v.

ALI SALEH KAHLAH AL-MARRI, DEFENDANT

[Filed: Feb. 26, 2009]

INDICTMENT

Count 1: 18 U.S.C. § 2339B
Conspiracy to Provide Material Support and
Resources to a Foreign Terrorist Organization
(al-Qaeda)

Count 2: 18 U.S.C. § 2339B
Providing Material Support and Resources to a
Foreign Terrorist Organization (al-Qaeda)

The Grand Jury charges:

COUNT 1

Conspiracy to Provide Material Support and Resources to a Foreign Terrorist Organization (al-Qaeda)

Beginning on an unknown date, but at least as early as July 2001, and continuing through on or about December 12, 2001, at Peoria, Illinois, in the Central District of Illinois, and elsewhere, the defendant,

ALI SALEH KAHLAH AL-MARRI,

knowingly conspired with others, unindicted herein, to provide material support and resources, as that term is defined in Title 18, United States Code, Section 2339A(b)(1), namely, personnel, to a foreign terrorist organization, namely al-Qaeda, which was designated by the Secretary of State as a foreign terrorist organization on October 8, 1999, pursuant to Section 219 of the Immigration and Nationality Act, and has remained so designated through and including the present time.

All in violation of Title 18, United States Code, Section 2339B(a)(1).

COUNT 2

Providing Material Support and Resources to a ForeignTerrorist Organization (al-Qaeda)

From on or about September 10, 2001, and continuing through on or about December 12, 2001, at Peoria, Illinois, in the Central District of Illinois, and elsewhere, the defendant,

ALI SALEH KAHLAH AL-MARRI,

knowingly provided material support and resources, as that term is defined in Title 18, United States Code, Sec-

tion 2339A(b)(1), namely, personnel, to a foreign terrorist organization, namely al-Qaeda, which was designated by the Secretary of State as a foreign terrorist organization on October 8, 1999, pursuant to Section 219 of the Immigration and Nationality Act, and has remained so designated through and including the present time.

All in violation of Title 18, United States Code, Section 2339B(a)(1).

A TRUE BILL
s/ Foreperson

[REDACTED]
FOREPERSON

s/ Assistant U.S. Attorney

[REDACTED]
for RODGER A. HEATON
UNITED STATES ATTORNEY

s/ Officer

[REDACTED]
MICHAEL J. MULLANEY
CHIEF, COUNTERTERRORISM SECTION
NATIONAL SECURITY DIVISION
DEPARTMENT OF JUSTICE

DER