

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

JUL 17 2009

Clerk, U.S. District and  
Bankruptcy Courts

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HAJJI NASSIM, A.K.A. HAROON AL- AFGHANI, )  
A.K.A. MOHAMMED NASEEM (ISN 10028), )  
Detainee, U.S. Naval Station Guantánamo Bay, Cuba, )

*Petitioner,*

v.

\_\_\_\_\_  
BARACK H. OBAMA, President, )  
ROBERT M. GATES, Secretary of Defense, )  
REAR ADMIRAL Tom Copeman, Commander, )  
Joint Task Force Guantánamo, )  
ARMY COL. BRUCE VARGO, Commander, )  
Joint Detention Group, Joint Task Force – )  
Guantánamo )

*Respondents.*

Case: 1:09-cv-01332  
Assigned To : Kennedy, Henry H.  
Assign. Date : 07/17/2009  
Description: Habeas Corpus/2255

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US DISTRICT COURT  
CLERK'S OFFICE

**PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner, Hajji Nassim, a detainee at United States Naval Station Guantánamo Bay, Cuba (“Guantánamo”), respectfully petitions for a writ of habeas corpus.

**I. JURISDICTION**

1. The jurisdiction of this Court rests on 28 U.S.C. § 1331 (federal question) and U.S. Const. art. I § 9 (Suspension Clause)

**II. VENUE**

2. Venue lies in this judicial district under 28 U.S.C. § 1391(e) because (1) Respondents are officers or employees of the United States acting in their official capacities or under color of legal authority, (2) one or more Respondents reside in this judicial district, and (3) a substantial part of the events or omissions giving rise to Petitioner's the claim occurred in this judicial district.

## **II. PARTIES**

3. Petitioner, Hajji Nassim, is a prisoner at Guantánamo.

4. Respondent Barack H. Obama is President of the United States. President Obama is sued in his official capacity.

5. Respondent Robert M. Gates is the Secretary of Defense. He is sued in his official capacity.

6. Respondent Rear Admiral Tom Copeman, is Commander, Joint Task Force – Guantánamo. He is sued in his official capacity.

7. Respondent Army Colonel Bruce Vargo is Commander, Joint Detention Group, Joint Task Force - Guantánamo. He is sued in his official capacity.

## **III. STATEMENT OF FACTS**

8. Mr. Nassim is imprisoned by Respondents at Guantánamo. Respondents have imprisoned Mr. Nassim there since at least June 22, 2007.

## **IV. CLAIMS FOR RELIEF**

### **COUNT I (SUSPENSION CLAUSE)**

9. Mr Nassim incorporates ¶¶ 1-8 by reference.

10. Mr. Nassim enjoys the privilege of habeas corpus guaranteed by the Suspension Clause, U.S. Const. art. I, § 9, cl. 2.

11. The privilege of habeas corpus entitles Mr. Nassim to a meaningful opportunity to demonstrate that he is being unlawfully held.

12. Mr. Nassim has not been afforded a meaningful opportunity to demonstrate that he is unlawfully being held.

13. Respondents' imprisonment of Mr. Nassim therefore violates the Suspension Clause.

**COUNT II  
(DUE PROCESS CLAUSE)**

14. Mr. Nassim incorporates ¶¶ 1-13 by reference.

15. The Due Process Clause of the Fifth Amendment provides that no person shall be deprived of life, liberty, or property, without due process of law. U.S. Const. Amend. V.

16. Mr. Nassim is entitled to the protection of the Due Process Clause.

17. Respondents have deprived Mr. Nassim of liberty without due process of law.

18. Respondents' imprisonment of Mr. Nassim therefore violates the Fifth Amendment.

**COUNT III  
(FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT - RENDITION)**

19. Mr. Nassim incorporates ¶¶ 1-18 by reference.

20. Upon information and belief, Mr. Nassim is at risk of being rendered, expelled or otherwise involuntarily returned without lawful procedures to a country that engages in torture. The transfer of the Mr. Nassim to a country where there is a foreseeable and direct risk that he will be subjected to torture constitutes a violation of Mr. Mohamed's rights under customary international

law, which may be vindicated under the Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105 § 2242, 112 Stat. 268 1-822 (1998).

21. Accordingly, Mr. Nassim is entitled to declaratory and injunctive relief, as well as any other relief the court may deem appropriate.

**COUNT IV  
(ALIEN TORT STATUTE - RENDITION)**

22. Mr. Nassim ¶¶ 1-21 by reference incorporates by reference all preceding paragraphs as if set forth fully herein.

23. Upon information and belief, Mr. Nassim is at risk of being rendered, expelled or otherwise involuntarily returned without lawful procedures to a country that engages in torture. The transfer of the Mr. Nassim to a country where there is a foreseeable and direct risk that he will be subjected to torture constitutes a violation of Mr. Mohamed's rights under customary international law, which may be vindicated under the Alien Tort Statute.

Accordingly, Mr. Nassim is entitled to declaratory and injunctive relief, as well as any other relief the court may deem appropriate.

**V. PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays for relief as follows:

1. Entry forthwith of the Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba, entered by this Court on September 11, 2008 (Misc. No 08-442 (Doc 409)).
2. Entry of an Order requiring that the government:
  - (a) produce concurrently a classified and unclassified factual return for Mr. Nassim, within

7 days;

- (b) produce a declassified factual return for Mr. Nassim, within 21 days;
  - (c) seek from the Court, simultaneously with the filing of the unclassified or declassified return, as the case may be, approval of any proposed treatment of information in the return as “protected information”;
  - (d) provide counsel for Mr. Nassim with 30-days’ advance notice of any intended transfer of Mr. Nassim from Guantánamo; and
  - (e) expedite the processing of any applications for appropriate security clearances by counsel and those assisting counsel.
3. Grant such other relief as the Court may deem necessary and appropriate.

DATED July 17, 2009

Respectfully submitted,



/s/ David H. Remes

David H. Remes

(D.C. Bar. No. ~~370372~~ **390982**)

Appeal for Justice

1106 Noyes Drive

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**CERTIFICATIONS OF REPRESENTATION WITHOUT COMPENSATION**

1. Pursuant to L. Cv R. 83.2(g), I hereby certify that I am a member in good standing of the District of Columbia, and that I am representing Mr. Mohamed without compensation

Dated: July 17, 2009

David H Remes

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2.

Dated: September 25, 2008

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3. Pursuant to L. Cv. R. 83.2(g), I hereby certify that I am a member in good standing of the Louisiana Bar, and that I am representing Mr. Mohamed without compensation.

Dated: September 25, 2008

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4. Pursuant to L. Cv. R. 83.2(g), I hereby certify that I am a member in good standing of the California Bar, and that I am representing Mr. Mohamed without compensation.

Dated: September 25, 2008

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5. Pursuant to L. Cv. R. 83.2(g), I hereby certify that I am a member in good standing of the Bar, and that I am representing Mr. Mohamed without compensation.

Dated: September 25, 2008

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