

[ORAL ARGUMENT NOT SCHEDULED]

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

FARHI SAEED BIN MOHAMMED, et. al.,)	
)	
Petitioners-Appellees,)	
)	Nos. 10-5034
v.)	& 10-5045
)	
BARACK H. OBAMA, et al.,)	
)	
Respondents-Appellants.)	
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**FINAL STATUS REPORT
AND MOTION TO DISMISS APPEALS AS MOOT**

Pursuant to Rules 27 and 42(b) of the Federal Rules of Appellate Procedure, and this Court's June 16, 2010 order, the Government hereby provides notice of petitioner's release from U.S. custody and control and transfer to his home country, Algeria, and moves to have these cross-appeals dismissed as moot.

1. These cross-appeals arise from a habeas corpus action brought by Farhi Saeed Bin Mohammed. Mr. Mohammed was detained by the Department of Defense at Guantanamo Bay. The district court granted Mr. Mohammed's habeas petition and ordered the Government to take "all necessary and appropriate diplomatic steps to facilitate" his release.

The Government appealed the district court's order granting the writ, but continued to work to effect petitioner's release. Petitioner also appealed the district court's order, claiming that the relief granted by the habeas order was inadequate.

The Government asked this Court to hold the cross-appeals from the district court's release order in abeyance because the Government planned to release petitioner from U.S. custody and control and transfer him to his home country, Algeria. The Government's motion explained that once the transfer was effected, the appeal and cross-appeal would be rendered moot.

This Court granted that request. On June 16, 2010, the Court held the appeals in abeyance and directed the Government to file "a status report on the progress of arrangements to effect the transfer of [petitioner] from Guantanamo Bay" every 14 days.

2. Pursuant to the June 16 order, the Government hereby provides notice that on January 5, 2011, petitioner was released from U.S. custody and control and transferred to his home country, Algeria. The Department of Defense notice of the transfer is attached.

In all cases where a detainee is released from Guantanamo, including the present case, the United States relinquishes all legal and physical custody of the detainee and he is transferred entirely to the custody and control of the other

government. The United States does not ask or direct the receiving government to detain the individual on behalf of the United States.

3. In light of the release from U.S. custody in compliance with the district court's release order, the Government's appeal of the order granting habeas relief is now moot. *See In re Petitioners Seeking Habeas Corpus Relief in Relation to Prior Detentions at Guantanamo Bay*, 700 F. Supp. 2d 119 (D.D.C. 2010) (Hogan, J., as Coordinating Judge).¹ Likewise, petitioner's appeal challenging the remedial order is also moot. *See Kiyemba v. Obama*, 605 F.3d 1046, 1047 (D.C. Cir. 2010) (distinguishing "twelve [petitioners who had] accepted an offer" of resettlement and "five petitioners who remain in this case" because they "are still being held at Guantanamo Bay"); *Qassim v. Bush*, 466 F.3d 1073, 1077–78 (D.C. Cir. 2006) (We have * * * repeatedly held that, while damages claims may survive release from incarceration, equitable claims do not"). Accordingly, the appeal and cross-appeal should be dismissed.

¹ Several former detainees have appealed Judge Hogan's ruling, arguing that, notwithstanding their release, they have a right to have their habeas claims adjudicated. *See Gul v. Obama*, No. 10-5117 (D.C. Cir.). Here, however, petitioner's habeas claim has already been adjudicated and granted by the district court. In asking this Court to dismiss the appeal, the Government is not asking for this Court to vacate the district court's ruling. Thus, the appeals from Judge Hogan's order have no bearing here.

CONCLUSION

For the foregoing reasons, the appeal and cross-appeal should be dismissed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2011, I served the foregoing “Final Status Report and Motion to Dismiss Appeals as Moot,” by causing a copy to be sent by ECF-delivery and by first-class U.S. mail, postage prepaid, to:

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ADDENDUM

703-697-5131/5132 (media)

IMMEDIATE RELEASE

January 6, 2010 703-571-3343 (public inquiry)

DETAINEE TRANSFER ANNOUNCED

The Department of Defense announced today the transfer of Saiid Farhi from the detention facility at Guantanamo Bay to the Government of Algeria. Farhi was ordered released by the U.S. District Court for the District of Columbia on Nov. 19, 2009.

As directed by the President's Jan. 22, 2009, executive order, the interagency Guantanamo Review Task Force conducted a comprehensive review of this case. As a result of that review, which examined a number of factors, including security issues, Farhi was approved for transfer by unanimous consent among all six agencies on the task force. In accordance with Congressionally-mandated reporting requirements, the administration informed Congress of its intent to transfer this individual.

The United States is grateful to the Government of Algeria for its willingness to support U.S. efforts to close the Guantanamo Bay detention facility. The United States coordinated with the Government of Algeria to ensure the transfer took place under appropriate security and humane treatment measures.

Today, 173 detainees remain at Guantanamo Bay.

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