

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

SUHAIL NAJIM)	
ABDULLAH AL SHIMARI <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 08-cv-0827 GBL-JFA
)	
CACI INTERNATIONAL, INC., <i>et. al.</i> ,)	
)	
Defendants)	
)	

**DECLARATION OF BAHER AZMY, ESQ. IN SUPPORT OF PLAINTIFFS’ MOTION
TO ENLARGE TIME TO COMPLETE PLAINTIFFS’ DEPOSITIONS**

I, Baher Azmy, hereby declare as follows:

1. I am the Legal Director of the Center for Constitutional Rights in New York, New York and counsel to the four plaintiffs in the above-captioned action. I have been admitted to appear *pro hac vice* in this action. I submit this Declaration to report to the Court on the status of Plaintiffs Suhail Najim Abdullah Al-Shimari, Asa’ad Hamza Hanfoosh Al-Zuba’e, and Taha Yaseen Araq Rashid regarding their travel to the United States to appear for depositions within the District, and in support of Plaintiffs’ motion to extend the time of their appearance for depositions in this District to April 26, 2013.

2. Specifically, this Declaration sets forth the current situation regarding the Plaintiffs’ travel to the United States and steps taken to ensure their arrival in the United States without further delay. This Declaration supplements the information I provided to the Court on

March 22, 2013 in my Declaration in support of Plaintiffs' previous motion to enlarge time to complete Plaintiffs' deposition and exhibits thereto. Dkt. # 233 ("Azmy March Decl.").

3. Plaintiffs Suhail Najim Abdullah Al-Shimari, Asa'ad Hamza Hanfoosh Al-Zuba'e, Taha Yaseen Araq Rashid, and Salah Hasan Al-Ejaili are Iraqi citizens who suffered torture and abuse while in U.S. custody in Abu Ghraib prison, and allege that CACI interrogators and supervisors operating in Abu Ghraib bear responsibility for Plaintiffs' mistreatment. Plaintiffs Al-Shimari, Al-Zuba'e, and Rashid all currently reside in Iraq, either in or near Baghdad (collectively, the "Baghdad Plaintiffs").

4. As foreign nationals, Plaintiffs are not permitted entry into the United States without a visa issued by the United States Department of State.

5. On February 14, 2013, this Court issued an order compelling Plaintiffs to appear in the Eastern District of Virginia for depositions and medical exams, within 30 days. Following the issuance of this Order, Plaintiffs' counsel worked diligently with State Department officials in Washington, D.C., in the Office of the Legal Advisor and the in the Office of Democracy, Human Rights and Labor, to expedite the processing of the Baghdad Plaintiffs' visas.

6. By February 25, 2013, all four Plaintiffs' applications for visas to the United States were granted. (*See* Azmy March Decl., Exhibit A.)

7. Plaintiff Al-Ejaili currently resides in Doha, Qatar and appeared, without incident, in the United States for medical examinations and deposition during the week of March 4, 2013. He left the United States on March 6, 2013.

8. I worked with Defendant's counsel to schedule the Baghdad Plaintiffs' travel for a week during which both depositions and medical examinations could be held. All Counsel agreed to the Baghdad Plaintiffs appearing for depositions during the week of March 18, 2013.

During a hearing on March 8, 2013, counsel moved jointly in asking the Court to modify its February 14, 2013 Order to allow depositions to be held during the week of March 18th. The Court granted that motion.

9. The Baghdad Plaintiffs' depositions and medical examinations were scheduled to take place throughout the week of March 18, 2013.

10. Round-trip airline tickets were purchased for the Baghdad Plaintiffs to travel from Baghdad to the United States on Friday, March 15, 2013, on Turkish Airlines, at a cost of approximately \$2,191.00 per ticket. (*See* Azmy March Decl. Ex B.) A ticket was also purchased for our Iraqi legal-team member, who was to escort the Baghdad Plaintiffs to their connection in Istanbul, Turkey and assist them with their connection to the United States. The Iraqi team member is not a plaintiff in the case, and was not scheduled to be deposed.

11. In advance of the Baghdad Plaintiffs' travel, Plaintiffs' counsel coordinated with an official from the Department of Homeland Security Transportation Security Administration (TSA) to assist the Baghdad Plaintiffs upon arrival in the United States because none of them speak English and have extremely limited experience with air-travel and international travel. (*See* Azmy March Decl., Exhibit C.) Plaintiffs' counsel also provided the Baghdad Plaintiffs with a letter explaining the nature of their travel. (*See* Azmy March Decl., Exhibit D.)

12. Plaintiffs arrived to the Baghdad airport, with a travel itinerary that would take them to Chicago, via Istanbul, Turkey. They were scheduled to arrive in Chicago the evening of March 15, 2013, where they would be picked up by Plaintiffs' counsel and an interpreter who reside in Detroit; this group was scheduled to travel together to Washington, D.C. on Sunday, March 17, in advance of the depositions scheduled that week.

13. The Baghdad Plaintiffs received boarding passes for their connecting flight to Istanbul. Attached hereto as Exhibit A are true and correct copies of Boarding Passes for the Baghdad Plaintiffs. After being issued their boarding passes, the Baghdad Plaintiffs proceeded to the gate to board their plane. The Baghdad Plaintiffs were taken for questioning, and subsequently informed that the airport agents had received a call from the United States directing them to not allow the Baghdad Plaintiffs to board the plane and that the Baghdad Plaintiffs would have to resolve the problem in the United States.

14. After being informed that the Baghdad Plaintiffs were not permitted to travel in the early morning of March 15, Plaintiffs' counsel contacted both their contact at the TSA who had arranged for a TSA agent to meet the Baghdad Plaintiffs upon their arrival in the United States and the official at the Department of State (Ms. Kelly Landry, Foreign Affairs Officer in the Bureau of Democracy, Human Rights, and Labor) who had been my primary contact in relation to efforts to expedite the Plaintiffs' visa processing.

15. Since March 15, Plaintiffs' counsel has been working with and through Ms. Landry to resolve what has been explained to me as an inter-agency miscommunication regarding the Baghdad Plaintiffs and their travel to the United States.

16. As advised by the Department of State, despite being in possession of valid U.S. visas, the Baghdad Plaintiffs reapplied for visas to the United States on March 16, 2013, in order to allow for the necessary inter-agency communication and coordination, which had failed to occur when the visas were granted in February. (*See* Azmy March Decl., Exhibit E.)

17. The Baghdad Plaintiffs were then contacted by U.S. officials at the U.S. Embassy in Baghdad and advised to proceed to the Embassy for interviews on the next business day in

Iraq, i.e., on Sunday, March 17. The Baghdad Plaintiffs appeared for their interviews on that date.

18. Over the following week of March 18, Plaintiffs' counsel remained in daily, regular phone and email contact with the State Department, through Ms. Landry. Plaintiffs' counsel provided requested information in response to updates on the Baghdad Plaintiffs' travel, including providing an itinerary for travel to the United States on March 26, 2013, following an update that the Baghdad Plaintiffs' visas would likely be processed and available for pick-up on Sunday, March 26.

19. I was informed by Ms. Landry on Friday, March 22, 2013, that the inter-agency coordination was continuing and that additional time would be needed to resolve the matter. She advised me that another government agency has taken the position that the Court's Order regarding the appearance of the Plaintiffs for deposition has expired and that this agency need not therefore even consider the renewed request for Plaintiffs' entry into this country, and that the issuance of a new order by the Court – as soon as possible – is necessary to facilitate the processing of the Baghdad Plaintiffs' application to enter the United States.

20. Later that day, on March 22, 2013, Plaintiffs filed a motion with this Court, seeking an enlargement of time to complete Plaintiffs' depositions, until April 5, 2013. Dkt. # 231. Plaintiffs emphasized in their motion papers that, while we believed that setting an April 5, 2013 deadline would be useful in getting the relevant government agencies to act quickly, we had no assurance that the process would in fact be completed by April 5, 2013. As such, Plaintiffs noted that, should the process carry beyond April 5, 2013, Plaintiffs would keep the Court apprised of developments and requested that granting of an extension should not be without prejudice to a subsequent request for additional time.

21. Specifically, Plaintiffs stated in the Memorandum of Law Supporting the Motion:

Plaintiffs understand that while a reasonable deadline – which Plaintiffs suggest would be April 5, 2013 – would put necessary pressure on the U.S. government to act on Plaintiffs’ visa applications, there is a possibility that the applications may not be fully processed in time for Plaintiffs to appear by April 5. Accordingly, Plaintiffs would respectfully request that an order setting the deadline not preclude a subsequent enlargement of time, should Plaintiffs be able to represent that Plaintiffs’ entry and appearance for depositions could occur after the April 5th deadline.

Dkt. # 232, at 6. *See also id.* at 7 (“Plaintiffs respectfully request that the Court grant Plaintiffs’ motion, and extend the period of time by which the Baghdad Plaintiffs must make themselves available for deposition to April 5, 2013, without precluding Plaintiffs from seeking a subsequent enlargement if it appears that approval for Plaintiffs’ entry into the United States is delayed beyond April 5, 2013 without fault of Plaintiffs.”).

22. On March 27, 2013 (in the early evening), the Court granted Plaintiffs motion, extended the deadline to appear for depositions to April 5, 2013, and ordered Plaintiffs to continue to work with the Department of State to ensure Plaintiffs’ timely arrival.

23. That same day, on March 27, 2013, I emailed a copy of this Court’s Order to Ms. Landry.

24. On March 28, 2013, I communicated with Ms. Landry by telephone. She informed me that, despite the Court’s order, it was unlikely that the Plaintiffs would have approval to travel by April 5. She advised me that we should make reservations with a specific itinerary in order to move forward with resolving issues related to the Baghdad Plaintiffs’ entry to the United States.

25. On March 29, 2013, Plaintiffs’ counsel provided the Department of State with an itinerary for the Baghdad Plaintiffs to travel to the United States. Based on the advice of

Ms. Landry, we scheduled the itinerary so the Plaintiffs would arrive in Washington, D.C. three weeks from that date, i.e., on April 19, 2013, and to leave the United States on April 27, 2013.

26. Throughout the week of April 1, Plaintiffs' counsel has contacted Ms. Landry, by telephone and email, to inquire about any updates on the status of the Baghdad Plaintiffs' travel to the United States.

27. As of today, Friday, April 5, Ms. Landry informed Plaintiffs' counsel that there is no additional information at this time.

28. As of today, the Department of State's Consular Electronic Application Center "Visa Status Check" system continues to show the Baghdad Plaintiffs' visa applications as in the "Administrative Processing" stage, with the last status update on March 17, 2013. Attached hereto as Exhibit B are true and correct copies of screenshots of the U.S. State Department's website showing the status of the Plaintiffs' visas on April 5, 2013.

29. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 5, 2013
New York, New York



Baher Azmy

CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2013, I electronically filed the Plaintiffs' DECLARATION OF BAHER AZMY through the CM/ECF system, which sends notification to counsel for Defendant.

/s/ George Brent Mickum
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