

Procedural History of Djamel Ameziane's Habeas Corpus Case

Ameziane filed a habeas corpus petition before the U.S. District Court for the District of Columbia in February 2005. The case was assigned to U.S. District Judge Ellen Segal Huvelle.

The case was stayed indefinitely in May 2009, over Ameziane's objections, and without a ruling on the merits of his challenge to the legality of his detention at Guantánamo. *See Ameziane v. Obama*, No. 05-cv-392 (ESH) (D.D.C.). The reason for the stay was sealed by the district court.

Despite the stay, the United States pursued an appeal in Ameziane's habeas case before the U.S. Court of Appeals for the District of Columbia Circuit; the issues on appeal were sealed by order of the appeals court. *See Ameziane v. Obama*, No. 09-5236 (D.C. Cir.). The habeas case was shrouded in secrecy.

On October 5, 2012, at the request of the United States, the appeals court ordered the entire appellate record in Ameziane's case unsealed for public disclosure. Because the appellate record contained numerous sealed filings, orders, and hearing transcripts from the district court, the disclosure order had the effect of revealing for the first time substantial information concerning district court proceedings in Ameziane's habeas case, including the reason why his case was stayed indefinitely – *i.e.*, because he has long been cleared for transfer and there is nothing to litigate except the country to which he will be sent. The appeals court has since posted these materials on its public docket.

The following are certain relevant excerpts from the Appellants' Appendix, available at www.ccrjustice.org/ameziane:

Among other significant developments, the unsealed materials reveal the following:

- Ameziane was cleared for transfer by the Bush Administration in October 2008;
- The United States attempted to forcibly transfer him to Algeria in October 2008, but the transfer was temporarily enjoined by the district court at his request because he fears persecution in Algeria;
- The United States attempted to avoid litigation of Ameziane's habeas case in December 2008, after his transfer to Algeria was barred, arguing that a stay was appropriate because:

“[T]he detention of Petitioner is no longer at issue” (App. 37);

“Respondents have determined to relinquish custody over Petitioner” (App. 40);

“[T]he only issue truly remaining is the country to which Petitioner should be sent” (App. 41);

There are no “military rationales” for Mr. Ameziane's continued detention, and “steps are [being] taken to arrange for the end of such custody” (App. 42);

- The district court denied the U.S. government's stay request shortly thereafter, and the case began to proceed toward a ruling on the merits of Ameziane's petition;
- Ameziane was once again approved for transfer by the Obama Administration's Guantánamo Review Task Force in May 2009;
- The United States immediately renewed its request for a stay based on Ameziane's Task Force clearance, and the district court granted that request over his objections;

- Following imposition of the stay, the district court expressed displeasure with Ameziane’s continued detention and the U.S. government’s apparent desire to forcibly return him to Algeria, the country he fled from more than 20 years ago to avoid persecution:

“I’m appalled at the situation here . . . I don’t know why in the world the only thing that the government can see here is Algeria” (App. 81);

“He was now been there seven years thanks to the United States government. Why they want to stand in the way of any possible, possible hope of something better for him baffles me. . . I think it’s our duty to try to do something about these people down there and not just say, okay, go to where you came from. We put you down there, and we’re going to try better” (App. 82);

“This gentleman has the perhaps glimmer of hope that something could get slightly better . . . Why should we stand in the way after the way we’ve treated him for these seven years?” (App. 82);

The district court also noted the “outrageous activities committed in Guantanamo” and expressed hope that Ameziane would not suffer retribution for his efforts to obtain safe resettlement in a country other than Algeria (App. 83-84);

But the court acknowledged that “no efforts have been made [by the United States] to put this gentleman anywhere else than the very country he fled from back in 1990” (App. 98);

The court concluded: “No one can give me a good reason why . . . this gentleman . . . is going to sit down there [in Guantanamo] for as long as humanly possible. . . He gave up his habeas, not voluntarily but because you [the government] wanted a stay, and I agreed that it ought to be stayed because it’s a waste of everyone’s time. But for him to give that right up and be in a worse position than somebody who exercises their habeas rights, you can’t have it both ways. It’s just not fair” (App. 104, 112-13).

Four years later, in July 2013, in response to Ameziane’s motion for a status conference, the Court granted the motion and scheduled a hearing. The Court also ordered the government to file a status report explaining “its efforts to transfer Mr. Ameziane over the past four years, what it expects will happen in the near future regarding his release from Guantánamo.” The government filed a sealed report regarding the transfer issues.

In August 2013, Ameziane filed a sealed motion for an order of release and other relief in response to the government’s status report regarding efforts to transfer. The Court ordered full briefing on the motion for release and scheduled argument on the motion for October 7, 2013.

On October 1, 2013, the government filed a motion to delay the hearing indefinitely due to the government shutdown, which Ameziane opposed the same day.

On October 2, 2013, the Court granted the motion to delay, vacated the hearing date, and stated that it would “proceed to decide the motion for release expeditiously.” The motion for release is still currently pending.

On November 4, 2013, the government filed a sealed notice in the case. Ameziane filed a sealed response to the notice, and later moved to unseal it on November 13, 2013. The Court denied the motion on November 22, 2013.

Public versions of Ameziane’s motion for release and reply were disclosed in redacted form on November 28, 2013.

Ameziane’s habeas case currently remains stayed indefinitely, and he has been detained at Guantánamo without charge or trial for nearly 12 years.