

PROTECTED INFORMATION – FILED UNDER SEAL

Ameziane for transfer. In support of its request, the government submitted a declaration of Ambassador Daniel Fried, the State Department's Special Envoy for the Closure of the Guantanamo Bay Detention Facility. *See* Ct. Ap. App. 44 (Fried Decl.). Ambassador Fried stated that "indiscriminate public disclosure of the decisions resulting from reviews by Guantanamo Review Task Force will impair the U.S. Government's ability effectively to repatriate and resettle Guantanamo detainees" under Executive Order 13,492. *Id.* That policy was critical given the need to utilize "every tool of statecraft at [the government's] disposal, including the ability to develop and implement a comprehensive strategy under which potential destination countries are asked to focus on those detainees whom the U.S. government considers to be the best fit for those countries." *Id.* at 46. Ambassador Fried explained that if "petitioners' counsel or other organizations acting on behalf of dozens of detainees approach the same small group of governments [with the Task Force decisions approving individual detainees for transfer]. . . it could confuse, undermine, or jeopardize our diplomatic efforts with those countries and could put at risk our ability to move as many people to safe and responsible locations as might otherwise be the case." *Id.*

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2. This Court issued its opinion, under seal, on January 8, 2010. In its decision, the Court held that the district court should have granted the government's motion to designate certain information as protected. Slip Op. at 19. This Court explained that the "Fried Declaration logically explained why failing to protect Task Force transfer decisions was likely to harm the government's foreign relations and national security interests" by making it more difficult to "determine where to send those who are cleared for transfer" and negotiate resettlement when "there is a compelling reason not to return them to their home countries." Slip Op. at 13 (quoting Fried Decl. ¶ 5). This Court further explained that Ambassador Fried had adequately explained that a "coherent diplomatic strategy" would be damaged by "permitting persons not authorized to speak on behalf of the government to 'convey[] official U.S. Government information . . . regarding the transfer status of a particular petitioner.'" Slip Op. at 14 (quoting Fried Decl. ¶ 6).

3. The efforts of the United States to resettle Guantanamo detainees have largely been successful - they have resulted in 40 detainees being resettled in third countries because of treatment or other concerns in their countries of origin since 2009. In addition, 28 detainees have been repatriated to their countries of origin since 2009. Consequently, the diplomatic and national security harms identified in

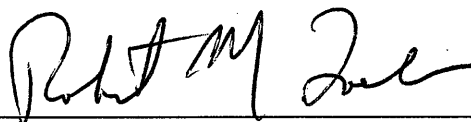
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the Fried Declaration are no longer as acute. In the government's view, there is no longer a need to withhold from the public the status of detainees who have been approved for transfer. *See* Slip Op. at 15 (court should “defer to the government's assessment of the harm to foreign relations and national security that would result from officially disclosing [the] Task Force transfer decision”).

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Because the underlying information is now being publicly released, there is no longer a basis for sealing this Court's records or opinion in the case. *See Washington Legal Foundation v. U.S. Sentencing Comm'n*, 89 F.3d 897, 902-03, 905 (D.C. Cir. 1996) (recognizing general common law right of access to court records that is "subject to the balance of public and governmental interests"). Accordingly, the government respectfully requests that this information be unsealed.

Respectfully submitted,



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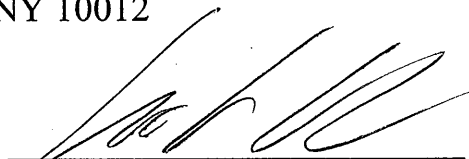
Washington, D.C. 20530

SEPTEMBER 2012

PROTECTED INFORMATION – FILED UNDER SEAL**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of September 2012, I caused copies of the foregoing motion to be filed by the Court by hand delivery, and to be served upon the following counsel by overnight mail and electronic mail:

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