

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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ABDULLATIF NASSER,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 05-764 (CKK)
	)	
JOSEPH R. BIDEN, JR., et al.,	)	
	)	
Respondents.	)	
_____	)	

**JOINT STATUS REPORT**

Pursuant to the Court’s Minute Order of March 30, 2021, the parties’ submit this Joint Status Report.

Petitioner’s Motion for Order Granting Writ of Habeas Corpus remains pending before Judge Hogan. See ECF No. 274; Minute Order (Jan. 18, 2020) (consolidating Petitioner’s motion with identical motions filed by seven other detainees for decision by Judge Hogan) (“the Consolidated Motion”).

**Petitioner’s Position**

Based on Ali v. Trump, 959 F.3d 264 (D.C. Cir. 2020), cert. denied, (U.S. May 17, 2020) (No. 20-888), Petitioner sought to supplement his position on the Consolidated Motion. See Unopposed Emerg. Mot. for Leave to Modify his Position in the Ongoing Litig. in Light of the DC Court of Appeals’ Decision in Ali v. Trump, & for Permission to Suppl. the Record & File a Supplemental Brief (Aug 7, 2020) (ECF No. 324). The Court granted the supplementation request. See Minute Order (Aug. 7, 2020). Supplemental briefing has been completed. See Petr. Nasser’s Supp. Br. Modifying his Position in the ongoing Litig. in light of the DC Court of

Appeals Op. in Ali v. Trump (Oct. 23, 2020) (ECF No. 328); Resps. Opp'n (Nov. 23, 2020) (ECF No. 330); Petr.'s Reply (Dec. 21, 2020) (ECF No. 332).

Petitioner requests that these proceedings now move forward. Counsel for Petitioner respectfully request that, as soon as practicable, the Court set oral argument and/or an evidentiary hearing regarding any potential factual disputes with respect to Petitioner's pending supplemental petition (ECF No. 328).

### **Government's Position**

Petitioner was approved for transfer by a Periodic Review Board in July 2016. The PRB recommended that he be transferred "only to Morocco with the appropriate security assurances as negotiated by the Special Envoys and agreed to by relevant USG departments and agencies."

See [http://www.prs.mil/Portals/60/Documents/ISN244/20160711\\_U\\_ISN244\\_FINAL\\_DETERMINATION\\_PUBLIC.pdf](http://www.prs.mil/Portals/60/Documents/ISN244/20160711_U_ISN244_FINAL_DETERMINATION_PUBLIC.pdf).

As the Government has previously stated, soon after his designation as eligible for transfer, the Department of State transmitted a diplomatic note to the Government of Morocco regarding the security assurances required by the U.S. Government for transfer. The Government of Morocco finally responded affirmatively to the U.S. Government regarding those assurances through a diplomatic note transmitted on December 28, 2016. Because of the timing of this response, which was less than 30 days before then-Secretary of Defense Carter would leave office, the Secretary did not make a final decision regarding the transfer, including whether the requirements of section 1034 of the National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, 129 Stat. 726, 969-970 (2015), were satisfied or whether the transfer was in the national-security and foreign-policy interests of the United States. Rather, the Secretary elected to leave that decision to his successor.

Pursuant to the still-governing Executive Order, the Secretaries of Defense and State are undertaking “vigorous efforts . . . to identify a suitable transfer location” outside of the United States for Petitioner to be relocated consistent with the national security and foreign policy interests of the United States. See Exec. Order 13567 §4, 76 Fed. Reg. 13277, 13279 (Mar. 7, 2011). These efforts would include negotiating a transfer agreement with the government of the identified country, including appropriate security and humane treatment assurances.

Accordingly, in the interests of judicial economy, the Government respectfully suggests that the Court may defer deciding Petitioner’s pending motion while the Government seeks to relocate Petitioner.

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