

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN CIVIL LIBERTIES .
UNION FOUNDATION .
Plaintiff, .
vs. . Docket No. CA 17-2069
JAMES N. MATTIS . Washington, D.C.
 . Thursday, January 18, 2018
Defendant. .
.x 11:31 a.m.

TRANSCRIPT OF MOTIONS HEARING
BEFORE THE HONORABLE JUDGE TANYA S. CHUTKAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiffs: Jonathan Hafetz, Esquire
Hina Shamsi, Attorney-at-Law
Dror Ladin, Attorney-at-Law
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street - 18th Floor
New York, NY 10004

Arthur B. Spitzer, Attorney-at-Law
AMERICAN CIVIL LIBERTIES UNION of the
DISTRICT OF COLUMBIA
4301 Connecticut Avenue, NW
Suite 434
Washington, DC 20008

For the Defendant: JAMES MAHONEY BURNHAM
U.S. DEPARTMENT OF JUSTICE
Civil Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

1 APPEARANCES [Cont'd]

2 Kathryn L. Wyer
3 U.S. DEPARTMENT OF JUSTICE
4 Civil Division
5 20 Massachusetts Avenue, NW
6 Washington, DC 20001

7 Court Reporter: Cathryn J. Jones, RPR
8 Official Court Reporter
9 Room 6521, U.S. District Court
10 333 Constitution Avenue, N.W.
11 Washington, D.C. 20001

12 Proceedings recorded by machine shorthand, transcript
13 produced by computer-aided transcription.
14
15
16
17
18
19
20
21
22
23
24
25

1 the argument and I'll hop in as I tend to do when you reach
2 the appropriate point. Mr. Hafetz.

3 MR. HAFETZ: Good morning, your Honor, again. The
4 motion relief sought in this motion is supported by a
5 bedrock principle that the United States cannot transfer an
6 American citizen from its jurisdiction, from the United
7 States unless it is positively authorized by law.

8 Here respondents have provided no basis, no legal
9 basis on which they could transfer the petitioner. And we
10 are seeking to preserve the Court's jurisdiction so that the
11 Court can decide this habeas challenge to the petitioner's
12 detention. The petitioner is not seeking as respondents
13 incorrectly claim continued custody. He's seeking release,
14 and handover to another sovereign is not release from
15 custody.

16 The cases that respondent relies principally on
17 the Supreme Court's decision in *Munaf* and D.C. Circuit's
18 decision in *Kiyemba II* do not support its position.

19 THE COURT: Let me ask you, Mr. Hafetz, and I know
20 you know *Munaf* because I saw you were on the brief in that
21 case. That case involved a handover or the government's
22 desire to transfer the petitioner to Iraqi authorities who
23 the, he was in the custody of multinational forces. The
24 allegation was he had committed, petitioner had committed
25 crimes under Iraqi law in Iraq. So if the government here

1 were able to demonstrate or proffer that another country to
2 which they wish to transfer the petitioner had a legitimate
3 interest in receiving the detainee as did Iraq in *Munaf*
4 would this court be able to prohibit transfer of the
5 petitioner under the circumstance?

6 MR. HAFETZ: Well just to clarify, your Honor, no
7 such basis is in the record now.

8 THE COURT: I don't know. I'm going to have to
9 ask the government some questions on that, but hypothetical
10 speaking.

11 MR. HAFETZ: Well, your Honor, it would need to be
12 authorized by law. So if there were a -- in other words, it
13 would have to be just a handover because of some claim for a
14 desire or some -- it would have to be authorized by law. It
15 would have to a statute or treaty. The background rule is
16 *Valentine*, that is the starting point which says where the
17 court says that any transfer to surrender of a citizen to a
18 foreign government has to be positively granted by law.

19 THE COURT: I understand. What I'm asking you is
20 if the government proffered in this case that the detainee
21 here had allegedly committed crimes in the country to which
22 they sought to transfer him, and that country was making a,
23 by all appearances a legitimate request for his transfer to
24 prosecute him on those charges, which is what was the case
25 in *Munaf*, wouldn't I -- I mean your position would be very

1 different, don't you agree?

2 MR. HAFETZ: I think your Honor's question there
3 are two different parts because *Munaf* is different in
4 another respect. In *Munaf*, you had two citizens who
5 traveled to the country and committed crimes there. In
6 addition, they were being held by the United States as the
7 Supreme Court said quote as the jailer for Iraq. The United
8 States was essentially an agent or an arm of the Iraqi
9 criminal justice system, so it was not a -- so essentially
10 they were hold -- and a sovereign now says it's a narrow --

11 THE COURT: That isn't controlling. That was one
12 of the factors certainly that the Court considered in
13 deciding that the transfer was permitted, but as I read that
14 case, even more important the Court's consideration was the
15 fact that the two detainees had committed crimes in the
16 jurisdiction in which they were being held. And had they
17 been released would simply have been facing prosecution for
18 those offenses, which isn't the case here as far as I know,
19 correct?

20 MR. HAFETZ: That's correct. That's correct. And
21 so essentially *Munaf* rested on the principle that a
22 sovereign has exclusive criminal jurisdiction within its
23 borders. Here though the petitioner was forcibly brought to
24 Iraq. And there's --

25 THE COURT: All I know, all I have in the record

1 was that, and this is based on what the government has put
2 in their papers, is that he was turned over to U.S. forces
3 by I believe Syrian armed forces. I'm not even sure. I may
4 not be stating correctly. He was turned over to U.S.
5 forces.

6 What if the government, and again this is a
7 hypothetical, but if the government asserts that they're
8 seeking to transfer him to a country in which he is alleged
9 to have committed crimes, does that change your analysis?
10 Does that change what I have to do? I mean, does that make
11 my job clearer?

12 MR. HAFETZ: So if hypothetically, and none of
13 this is in the record. The government is opposing a
14 transfer without, sorry, is opposing a restriction on
15 transfer without any lawful basis. But hypothetically let's
16 say that a person he was, the petitioner was accused of
17 committing crimes in say France, okay, hypothetically right.
18 And France had charged him, which was the situation in
19 *Munaf*, where we have criminal proceedings. France had
20 formally submitted a request to prosecute him for crimes
21 committed within its jurisdiction. The Court at that point
22 would evaluate whether there was a lawful basis to extradite
23 or transfer the person. And if there was, the case would
24 be, that would be the issue.

25 But here there has to be a lawful basis. You

1 can't just simply take an American citizen and hand him over
2 to a foreign jurisdiction absent some authorization by
3 statute or by treaty that authorizes the transfer.

4 THE COURT: Is your argument that, that the, any
5 transferring sovereign or jurisdiction would have to have --
6 there would have to have been a crime committed? Or is any
7 legitimate interest in receiving the detainee enough?

8 MR. HAFETZ: No, it would have to be a legal
9 basis. It would have to be for simply to a, to a criminal
10 charge, which is the situation in *Munaf*. Because remember,
11 your Honor, the government basically -- they rely on their
12 wartime authority to transfer him as an enemy combatant.
13 The entire question in dispute here, the merits question is
14 whether he is or is not properly detained as an enemy
15 combatant. If he's not detained as an enemy combatant the
16 remedy is release.

17 This is different than *Munaf* because in *Munaf*
18 release would have been as your Honor pointed out he would
19 have been picked up by the Iraqis because he was facing
20 proceedings in Iraq. Here release is freedom, and that is
21 the difference. And so we're only asking for relief.

22 Also on *Munaf* just --

23 THE COURT: I think it needs to be made clear
24 that's not what you're asking for today. What you're asking
25 for today is the preservation of the status quo until his

1 petition for release can be ruled on, correct?

2 MR. HAFETZ: Correct, correct. And if the
3 government were to come forward with a lawful basis for
4 transfer, say something like your Honor of a person
5 extradition request the court can evaluate it at this point.
6 But at this point we're merely seeking a restriction on a
7 unauthorized, lawless handover to another sovereign. The
8 government has to come forward with some kind of basis to, a
9 lawful basis to transfer.

10 Even in *Munaf* there was review of the transfer
11 decision. And your Honor, just to sharpen the *Munaf* point,
12 because it's not entirely clear from the Supreme Court's
13 decision but as you might familiar case and also with the
14 lower court's decisions. In both cases the individuals were
15 detained by the MNF-1, the international force on behalf of
16 Iraq because of the threat they posed to Iraq having entered
17 the country. They were -- Iraq initiated criminal
18 proceedings against those individuals.

19 There was refer of charges for Omar one of the
20 petitioners. And in *Munaf*, proceedings were underway.
21 There'd been multiple court hearings. And then, only then
22 the habeas petitions were filed seeking to enjoin the
23 transfer. Here you have a situation where the United States
24 is, there are no proceedings, although the United States has
25 simply detained this individual as an enemy combatant. And

1 he's seeking release. As the Court said -- sorry,
2 respondent acknowledges in *Munaf* the petitioners were not
3 seeking release and that's the remedy in habeas.

4 THE COURT: I'll let you continue, Mr. Hafetz.

5 MR. HAFETZ: Well, I want to, unless your Honor
6 has more questions on *Munaf* I just want to address *Kemba II*,
7 which is the other case that the government relies
8 principally on. That case addressed as the DC Circuit said
9 the transfer of wartime alien detainees. So these
10 individuals had no right to enter the United States because
11 they were noncitizens, and thus there was no possibility of
12 release. The remedy in habeas.

13 And so consistent with longtime historical
14 practice when there were individuals who were in the United
15 States no longer regarded as enemy combatants the practice
16 is transfer to their home country or to a safe third
17 country. Here, this is a United States citizen with a right
18 to return to the United States should he choose. And when
19 citizens are released from unlawful executive detention the
20 result is not repatriation or transfer but release from
21 custody.

22 THE COURT: I want to go back to *Munaf* for a
23 minute as well as ****Kemba*. The Supreme Court recognized in
24 *Munaf* that courts have traditionally been reluctant to
25 intrude on the authority of the executive in military and

1 national security affairs and I share that hesitancy. I
2 would rather not. That's not my lane. And I'd rather not
3 interfere in those workings, but why should I do so here?

4 MR. HAFETZ: Well --

5 THE COURT: Obviously, I have jurisdiction in a
6 petition for habeas corpus, but habeas corpus was not
7 traditionally used in military matters. And this is a case
8 where an individual designated as an enemy combatant by the
9 United States has been held overseas as a, and has been
10 questioned for I assume law enforcement -- well, no longer a
11 question for law enforcement but being questioned for
12 military purposes, and they seek his transfer for some
13 strategic, military strategic reason which I am not party
14 to. Why should I start telling the U.S. military where they
15 can move prisoners? Where they can move prisoners to and
16 from?

17 MR. HAFETZ: So --

18 THE COURT: I recognize it's a large question. I
19 am, you know, the courts and I, but the courts are truly
20 reluctant to weigh in to these areas. And I am cautioned by
21 the Supreme Court's reminder that we should only do so in
22 extraordinary circumstances.

23 MR. HAFETZ: Let me address your question first at
24 the broader level. I respectfully, your Honor, disagree
25 when it comes to the rights of United States citizens.

1 These cases are not directly on point because they raise
2 different issues, but they get exactly your Honor's
3 question. One of the most celebrated cases in the United
4 States history *ex parte Milligan* dealt with the, a military
5 matter, the military trial of a United States citizen. And
6 the Supreme Court by the Lincoln administration and the
7 Supreme Court invalidated that and issued some of the most I
8 think important language about the importance of the Bill of
9 Rights for American citizens.

10 *Ex parte Quirin* another case which while on the
11 merits upheld the recent military commission on those facts.
12 The Supreme Court intervened promptly, heard two days of
13 argument on an emergency session because the case involved
14 the trial of an American citizen. I'm going to come to
15 *Munaf* in a second, but I just want to, you know, it's the
16 notion that when we're talking about the rights of American
17 citizens and military you know the Supreme Court has not
18 been reluctant to interfere.

19 THE COURT: I don't dispute for a minute that I
20 don't have the authority here, or that habeas doesn't apply
21 to U.S. citizens held by the U.S. military. They're in the
22 detention of the government and obviously does. I think the
23 concern that I have is as I've expressed in other cases
24 where traditionally executive functions are involved, which
25 I am reluctant to get down to a very granule level in

1 deciding who goes where and what visas are issued. I mean
2 it's not a traditional role of the courts to make those
3 kinds of decisions, and I'm always very caution about
4 getting down to that level where you can transfer people and
5 what you can do with them who are in the custody of the
6 military.

7 MR. HAFETZ: Let me respond with just a couple of
8 additional points focused on this case. In *Munaf* which is
9 the closest case in some regards not as we say on the
10 transfer question, but on the fact of the court's exercise
11 of habeas jurisdiction. In *Munaf*, the Supreme Court was
12 unanimous saying the court had habeas jurisdiction in a case
13 that was frankly ten times more complicated as a
14 jurisdictional matter because the petitioner, petitioners in
15 that case were being held by an international force. And
16 what Chief Justice Roberts said is as long as the United
17 States holds the keys to the jailhouse for an American
18 citizen this court has habeas jurisdiction.

19 Then, your Honor, *Hamdi*, some of those same
20 arguments were made by the government in *Hamdi*, a case of an
21 American citizen, arguments by the government that courts
22 should not second guess the executive, not be in the
23 business of reviewing detentions during wartime even of
24 American citizens. And the Supreme Court rejected that very
25 clearly in saying that the United States citizen has a right

1 to due process, and that even a state of war is not a blank
2 check when it comes to the rights of American citizens.

3 And so this is not a question of micromanagement
4 or what U.S. facility this person might be under. For
5 example, if the government proposed to transfer him to a
6 different U.S. facility where they've held other prisoners,
7 for example, in the United States the Court would retain its
8 habeas jurisdiction under *arguendo*, but that would be the
9 type of sort of micromanagement. Here we're talking about a
10 lawless handover without any legal basis to a foreign
11 country. Again, the Supreme Court was clear in *Valentine*.

12 THE COURT: Slow down a little bit.

13 MR. HAFETZ: So it would a lawless -- here what
14 the government is seeking is an unrestricted blank check to
15 terminate this challenge to detention and hand over a
16 citizen to another government or country without any kind of
17 review, and without needing to show any lawful basis. And
18 there's nothing in the record that suggests there's any
19 legal basis for this transfer. This is not a case where he
20 committed -- this is not *Munaf*. And this is not a case
21 where he's been confirmed to be an enemy combatant.

22 THE COURT: Yeah, I agree with you that the record
23 is sparse here, but I'll have some questions for the
24 government on that. Let you get back to your argument on
25 *Kemba*. I think I interrupted you when you had moved there.

1 And if not, I do have some questions on your response to the
2 government's All Writs Act argument.

3 MR. HAFETZ: Sure. I don't have much more to say
4 on Kemba. Just again the main points being that these were
5 wartime alien detainees to quote the DC Circuit, who had no
6 right to enter the United States and could not be released.

7 So in a sense there's a parallel here with *Munaf*.
8 The release was not a remedy in either of those cases. In
9 *Munaf* it wasn't a remedy because the sovereign on whose
10 territory the citizens had voluntarily entered and allegedly
11 committed crimes that sovereign was prosecuting those
12 citizens for crimes committed on its territory. So the
13 release, they were essentially seeking release, but to be
14 sheltered.

15 THE COURT: Right. Release would have been a
16 friction. Release would have meant immediate prosecution.

17 MR. HAFETZ: Right, and the same for Kemba.
18 There's no, release was not possible. They were being held
19 in a military base in Guantanamo. Release on Guantanamo was
20 not possible, and there was no right of release into the
21 U.S. as alien wartime detainees as the D.C. Circuit said.
22 So transfer to another country was the only possible remedy.

23 Here release is a remedy. The government could
24 open the jailhouse doors tomorrow and let this American
25 citizen who has, there's no basis to detain we argue, free.

1 And that simply is the essential remedy on habeas. There's
2 nothing in *Munaf* or *Kiyemba* that suggests that this court
3 can't maintain its jurisdiction to ensure the citizen who
4 has been locked up for over four months now has a right to
5 be released from custody.

6 THE COURT: All right.

7 MR. HAFETZ: If you have a few questions on that?

8 THE COURT: I noticed that you did not respond to
9 the government's argument unless I missed to their All Writs
10 argument.

11 MR. HAFETZ: So, your Honor, we agree that under
12 DC Circuit law on the *Winter* factors apply. We've explained
13 why. We've shown a likelihood of success as well as why the
14 other factors of irreparable harm, and the balance of
15 the equities weigh strongly in our favor. The All Writs Act
16 however reinforces this Court's authority to enter the
17 requested of relief in light of the showing that we've made
18 on the *Winter* preliminary injunction factors.

19 THE COURT: All right.

20 Thank you, Mr. Hafetz. Give me one moment. I'm
21 sorry.

22 MR. BURNHAM: Thank you, your Honor, good morning.
23 My name is James Burnham again here on behalf of the
24 respondent. Petitioner in this case is a citizen of the
25 United States. He's also a citizen of Saudi Arabia. He's a

1 dual national, who is here today because of his voluntary
2 decision to travel Syria where he was ultimately captured by
3 the Syrian democratic forces in ISIL controlled territory.

4 Because petitioner hold U.S. citizenship the
5 Syrian democratic forces did turn him over to American
6 forces stationed in the country of Iraq. The United States
7 military is currently holding petitioner at a location in
8 Iraq, though the specific location of which is classified.
9 As the Court knows the petitioner is seeking a preliminary
10 injunction enjoining the United States from relinquishing
11 custody of him to another country with the legitimate
12 interest in taking that custody.

13 THE COURT: Let me stop you right there.

14 MR. BURNHAM: Yes, your Honor.

15 THE COURT: You made a statement that I haven't
16 seen any support for in the record which is that the
17 petitioner seek to prevent a transfer to a country with the
18 legitimate interest in him. What is there in the record --
19 I mean other than your statement here what is there in the
20 record to support that statement?

21 MR. BURNHAM: Well, your Honor, it's in the record
22 that he was captured in Syria in ISIL controlled territory.
23 And it's in the record that he's currently being held in the
24 nation of Iraq. I would say that Iraq at the very least --

25 THE COURT: Yes. We don't even know, we don't

1 have anything in the record that says what country the
2 United States is seeking to transfer him to, so your
3 statement they're seeking to transfer him to a legitimate
4 interest in his transfer tells me nothing.

5 MR. BURNHAM: Respectfully, your Honor, it's not
6 our burden to tell you what country he's going to. It's
7 petitioner's burden to --

8 THE COURT: Right, but you still have to proffer
9 what the legitimate interest is.

10 MR. BURNHAM: No, we don't, your Honor. There's
11 no legal requirement that the United States proffer anything
12 to defeat a preliminary injunction when it's the
13 petitioner's burden.

14 THE COURT: Okay. Wait a minute. Slow right down
15 here. The government holds the key to the petitioner's jail
16 cell.

17 MR. BURNHAM: Yes.

18 THE COURT: In fact, until I ordered the ACLU to
19 have access to the petitioner, the ACLU is prevented from
20 even learning the detainee's name. We certainly don't know
21 where he's being held because that's a legitimately
22 classified information, and no one would argue that it
23 wasn't. I haven't heard anyone argue that it wasn't and I
24 certainly wouldn't find that.

25 However, if what you're seeking to do is to

1 transfer the petitioner to another unnamed country, which
2 would serve to defeat or make meaningless his petition for
3 habeas corpus over which this Court has jurisdiction, are
4 you saying that the ACLU somehow has the burden to determine
5 what that country is and what their legitimate interest is?

6 MR. BURNHAM: No, it's not, your Honor.

7 THE COURT: So is it then your position that all
8 you have to say is we're transferring him to a country with
9 a legitimate interest and that should suffice to meet the
10 burden set forth under *Munaf*?

11 MR. BURNHAM: Respectfully, your Honor, under
12 *Munaf* the government didn't have to carry a burden at all.
13 If I could --

14 THE COURT: No. My question is in *Munaf* the
15 record before the Court was that the petitioners had
16 committed, allegedly committed crimes in the jurisdiction in
17 which they were being held, that if they were released in
18 that country they would be prosecuted, that country sought
19 to prosecute them for the crimes for which they had
20 allegedly committed in that country.

21 So the record was far more complete than it is
22 here. There wasn't a ruling either way as to what the
23 government was required to show or not because the record
24 was far more fulsome than it is in this case. And so my
25 question to you again is, is it your position that you do

1 not have to provide any further information other than to
2 state that the transfer country has a legitimate interest in
3 the detainee?

4 MR. BURNHAM: So, your Honor, again that's why I
5 think you have to read *Munaf* in conjunction with *Kiyemba II*.

6 THE COURT: I have.

7 MR. BURNHAM: I understand. And *Kiyemba II* itself
8 says, your Honor, that *Munaf*, and this is a quote from the
9 D.C. Circuit's decision, "Precludes a Court of issuing a
10 writ of habeas corpus to prevent a transfer on either the
11 grounds that the petitioner in the case would be subjected
12 to further detection or torture." Now my friend has
13 distinguished that case on the ground that it doesn't
14 involve U.S. citizens, but the DC Circuit said that doesn't
15 matter.

16 THE COURT: But again, the ACLU here has
17 distinguished both *Munaf* and *Kiyemba* on their facts which is
18 *Munaf* involved detainees who had been charged with crimes in
19 the country in which they were being held. And *Kiyemba*
20 involved noncitizens who could not have been released in the
21 United States.

22 MR. BURNHAM: Your Honor, I understand that
23 factual distinction, but the D.C. Circuit held that
24 distinction doesn't matter. If I can just read it to your
25 Honor. The court assumed *arguendo* these alien detainees

1 have quote, "The same constitutional rights with respect to
2 their proposed transfer as did the U.S. citizens in *Munaf*."
3 And so in that case the court said the District Courts
4 cannot enjoin transfer to another country because that is
5 equivalent to release which the relinquishment of custody
6 from the United States government and U.S. military.

7 THE COURT: It doesn't say that it can't do that
8 in all circumstances. I read that footnote. I read both
9 cases and the DC Circuit's opinion. And in nowhere does it
10 say the Court is precluded from enjoining transfer in every
11 circumstance. That's why we're here.

12 MR. BURNHAM: No, your Honor, actually it said
13 that the Court is precluded from enjoining transfer on two
14 bases. One that the petitioner will be continued to be
15 detained in the other country, and two that he'll be
16 subjected to torture --

17 THE COURT: And the ACLU has not made any of those
18 arguments here.

19 MR. BURNHAM: The only other argument I think the
20 ACLU has made, your Honor, is the same argument they made in
21 *Munaf* which is that the court should enjoin transfer to
22 preserve its jurisdiction which is something the Supreme
23 Court unanimously rejected in *Munaf*. If I could --

24 THE COURT: As I see it and Mr. Hafetz is going
25 to, I'm sorry, will make his own argument when he stands up.

1 What you're proposing would allow the government in every
2 case of a United States being held by the government where
3 there's been a petition for habeas corpus to be filed. The
4 government would be allowed to do an end run on every single
5 petition by simply moving the detainee to another country,
6 and saying we can't tell you what it is, but they've got a
7 legitimate interest in his transfer.

8 I'm certainly -- are you saying that that's
9 doable?

10 MR. BURNHAM: No, your Honor. What I'm saying,
11 your Honor, is the remedy for habeas corpus is release from
12 U.S. custody. And that --

13 THE COURT: Wait, maybe we need to go back.
14 You're not challenging that the detainee here is in U.S.
15 custody?

16 MR. BURNHAM: Of course not, your Honor. What I
17 was going to say is that when the United States relinquishes
18 custody of an individual into the bona fide custody of
19 another country he's no longer under our control. And
20 there's no --

21 THE COURT: What's different here there's a
22 petition for habeas corpus over which you agree with me I
23 appropriately have jurisdiction?

24 MR. BURNHAM: Oh, of course. Absolutely.

25 THE COURT: So it is your position that during the

1 pendency of a petition for habeas corpus before a Court that
2 is pending the government can simply moot that petition or
3 do an end run around that petition by simply transferring
4 the detainee, a United States citizen, to another country
5 and saying they have a legitimate interest? Wouldn't that
6 always give the government a way to evade habeas review?

7 MR. BURNHAM: Your Honor, it's not evading habeas
8 review to grant the petitioner the relief he's seeking. The
9 relief he's seeking is release from U.S. custody. So if the
10 United States releases the petitioner which is what a --
11 but, your Honor, that's what a transfer is. And if another
12 sovereign took control of him. Let's say the Iraqis
13 arrested outside of the facility where he's currently being
14 held after we opened the door he would have no right to
15 habeas corpus in the United States.

16 THE COURT: I doubt very strongly that Mr. Hafetz
17 is going to stand up and say that the relief that they seek
18 on behalf of the detainee is for him to be released to Saudi
19 Arabia.

20 MR. BURNHAM: Well, your Honor, I have no idea
21 what Mr. Hafetz is going to say. But it sounds like what
22 he's going to say the relief he seeks is what the Court in
23 *Munaf* said they cannot get, which is for the United States
24 to quote smuggle him out of Iraq. In this case, Mr. Hafetz
25 I assume will ask that petitioner be brought to the United

1 States. If all that he's asking is that he be released from
2 the facility in Iraq then as soon as he's recessed from U.S.
3 custody the Court would lose jurisdiction and whether the
4 Saudis take custody of him, the Iraqis or the Syrian
5 democratic forces the habeas case would be gone.

6 THE COURT: That's a very literal reading of
7 release, don't you think? I mean is what you're saying if I
8 ordered -- say I considered his petition for habeas corpus
9 found that it was merited and ordered his release then is it
10 your position that the government simply has to open the
11 door of the facilities in which he's being detained in Iraq
12 and let him walk out the door?

13 MR. BURNHAM: Your Honor, I haven't thought about
14 the mechanics of that. But I think if the Court ordered us
15 --

16 THE COURT: It seems to me that's what you are
17 saying. Release in this case would simply mean opening the
18 door and letting in the first person who could grab him and
19 take him.

20 MR. BURNHAM: Your Honor, I guess I'm not trying
21 to make it so literally. I guess I'm trying to make a
22 conceptual point, release from U.S. custody and that's what
23 relinquishment of custody to another country is. And that's
24 why I think *Kiyemba II* said everything in the opinion
25 applies equally to U.S. citizens as it does to foreign

1 nationals. That's where the D.C. Circuit I think made that
2 point. Because the central holding of *Munaf* was that habeas
3 corpus provides release. It doesn't provide a vehicle to
4 retain custody to have a habeas ruling about release later.
5 It just provides you to be released from U.S. custody.

6 THE COURT: You're saying then, Mr. Burnham, that
7 if the government were to turn over the detainee to Saudi
8 Arabia that would be the relief that the ACLU seeks for him,
9 his release from U.S. custody?

10 MR. BURNHAM: If we hypothetically relinquished
11 custody of petitioner to the nation of Saudi Arabia, a
12 nation in which he is a citizen that would be complete
13 relief in a habeas proceeding, seeking release from U.S.
14 custody. As long as your Honor the relinquishment of
15 custody was total. So I think it's a different case
16 certainly if the United States is still in control if we're
17 still calling the plays.

18 In other words, as Mr. Hafetz put it I think if we
19 still control the keys to the jailhouse door I do think that
20 would be a different case. And there would be a typical
21 question about whether this court still has jurisdiction
22 over him. Because in effect he would still be held by the
23 United States even if it was in another country, but that's
24 not what we're contemplating here. What we're talking about
25 here I think is a complete surrender of U.S. custody for

1 disposition according to the laws and policies of another
2 country which I think is exactly what the Court was talking
3 about in *Munaf*.

4 Just to drill down a little on the distinctions
5 that have been offered from *Munaf*. The petitioners in *Munaf*
6 had been subjected to no U.S. judicial proceedings
7 whatsoever. They had not been designated enemy combatants
8 by a U.S. court. They had not had a U.S. court find that
9 there was a factual basis for their detention. They had
10 only been given some executive branch process internally.

11 THE COURT: Mr. Burnham, is the petitioner in this
12 case facing criminal charges in another country?

13 MR. BURNHAM: Not to my knowledge, your Honor.

14 THE COURT: Is there an ongoing criminal
15 proceeding taking place in another country?

16 MR. BURNHAM: Not to my knowledge, your Honor,
17 but I'm not sure why it would matter.

18 THE COURT: Is the United States government
19 holding the petitioner on behalf of a foreign government?

20 MR. BURNHAM: I can't answer that.

21 THE COURT: Wait you said you can't answer that.

22 MR. BURNHAM: I just don't know, your Honor. I
23 don't mean to be coy. I don't, as far as I know, no, but I
24 can't.

25 THE COURT: In *Munaf* those were all conditions

1 that were present. In *Munaf* the petitioners were facing
2 criminal charges in another country. There was an ongoing
3 criminal proceeding taking place in another country, I
4 think. Why would *Munaf* bar this Court from prohibiting a
5 transfer of petitioner even though none of these
6 circumstances are present in *Munaf* or present here?

7 MR. BURNHAM: It's not about what facts were
8 present in *Munaf*. It's about what the Supreme Court held.
9 And what the Supreme Court held was that habeas is a remedy
10 for unlawful detention the remedy for which is release. And
11 I think that's why the court has to read *Munaf* in
12 conjunction with *Kiyemba II* because I think *Kiyemba II* is
13 much more categorical about what *Munaf* means. And this is
14 just another quote that decision. Quote, "The District
15 Court may not issue a habeas corpus to shield a detainee
16 from detention at the hands of another sovereign on its soil
17 and under its authority." And that's at page 516 of the
18 D.C. Circuit's opinion in *Kiyemba II*.

19 Another quote from the D.C. Circuit's opinion, "To
20 the extent the detainee seek to enjoin their transfer based
21 upon the expectation that a recipient country will detain or
22 prosecute them *Munaf* bars release." And that's on page 515
23 here. And so I just think when you --

24 THE COURT: That's not the argument here. There's
25 no argument the ACLU has not made the argument that the

1 country to which the United States seeks to transfer, and in
2 this case the government concedes it's Saudi Arabia.

3 MR. BURNHAM: I have not said that, your Honor.
4 It's just a hypothetical. I was speaking hypothetically
5 about countries that may have had a legitimate interest in
6 petitioner. If I misspoke I apologize.

7 THE COURT: The government agrees he's a citizen
8 of --

9 MR. BURNHAM: Oh yes, your Honor, I definitely
10 meant to say that. I just didn't mean to suggests, I'm
11 telling you what our intentions are.

12 THE COURT: No one has made the argument on behalf
13 of petitioner that I have read or heard that the petitioner
14 should not be transferred because he would be tortured or
15 for any other reason. They're simply saying he shouldn't be
16 transferred during the pendency of this petition for habeas
17 corpus. As I understand it what the ACLU seeks here is not
18 an open ended you can't move him anywhere ever, but to
19 release him to the United States. What the ACLU seeks is a
20 stay or an order staying any transfer until this Court has
21 had an opportunity to rule on his petition.

22 MR. BURNHAM: I think in that respect their case
23 is much weaker than the petitioners had in *Munaf*. At least
24 in *Munaf* and *Kiyemba* they were making an argument about why
25 transfer would be adverse to their interest. They would be

1 continued to be detained or they would be tortured or
2 something bad would happen. Petitioner hasn't even done
3 that.

4 THE COURT: Why should they? In other words, why
5 is it not enough to want a ruling on their petition for
6 habeas corpus to prevent the government from simply mooting
7 or doing an end run or somehow evading review?

8 MR. BURNHAM: I guess I'm confused by that, your
9 Honor. Because the mechanism by which we would evade review
10 is by providing complete relief. And so --

11 THE COURT: I guess if your position is by
12 transferring him to another sovereign nation you're
13 providing petitioner with complete relief. If that's your
14 argument then certainly yes, you're giving the petitioner
15 complete relief. I somehow suspect that Mr. Hafetz is going
16 to stand up and take a different prospective on whether that
17 constitutes complete relief.

18 MR. BURNHAM: But that's not my position, your
19 Honor, that's the position of the amicus Supreme Court in
20 *Munaf*. I'm quoting from the Court's opinion, "Habeas at its
21 core is a remedy for unlawful detention." Another quote,
22 "The typical remedy for such detention is of course
23 release."

24 THE COURT: For a U.S. citizen.

25 MR. BURNHAM: Yes.

1 THE COURT: Relief for a U.S. citizen would be
2 release to the United States.

3 MR. BURNHAM: Your Honor, they were U.S. citizens
4 in *Munaf*, and the Supreme Court said it was complete relief
5 to release them to Iraq.

6 THE COURT: What you are doing, Mr. Burnham, is
7 you are picking and choosing nuggets. It's not that you're
8 reading them in conjunction. You are picking and choosing
9 nuggets from each of those cases which suit your argument.
10 But the fact of the matter is that release in *Munaf* would
11 have been a completely different thing from release here.
12 Because release in *Munaf* would have meant immediate
13 prosecution by Iraqi authorities. It could have been
14 nothing else.

15 Release in this case as I said taking a very
16 literal reading which means that they open the detention
17 facility and whoever can take this man takes him. But if
18 release of a U.S. citizen in the traditional habeas sense is
19 to apply to this case release would mean the transfer of
20 this petitioner to the United States. And is it your
21 position that's wrong?

22 MR. BURNHAM: Yes.

23 THE COURT: And that is because you'd have to
24 physically transport him to the United States?

25 MR. BURNHAM: No, your Honor, my position is that

1 that's wrong because all that the habeas right provides is
2 relinquishment of United States custody. And so whether
3 that's relinquishment to the custody of Saudi Arabia or Iraq
4 or the Syrian democratic forces --

5 THE COURT: Do you have a single case that says
6 that?

7 MR. BURNHAM: Yes, of course, *Kiyemba II*. *Kiyemba*
8 *II* says that the --

9 THE COURT: *Kiyemba II* did not involve the
10 detention of United States citizens, so naturally it
11 couldn't provide relief to the United States. Those
12 noncitizen combatants could not have been released to the
13 United States. It was an illegal impossibility. So *Kiyemba*
14 does not provide the support which you seek. *Kiyemba* is not
15 a case that says habeas relief for a United States citizen
16 is just relief from custody. It doesn't have to be the
17 United States. In *Kiyemba* could not have been to the United
18 States.

19 MR. BURNHAM: I understand the facts of *Kiyemba*,
20 but the D.C. Circuit said that that fact didn't matter. So
21 the D.C. Circuit held that its opinion was equally
22 applicable to U.S. citizens as it was to foreign nationals.

23 THE COURT: Did you make this argument in your
24 brief?

25 MR. BURNHAM: I believe so. It's Footnote IV of

1 the Court's decision. We certainly rely on the Court's
2 decision extensively. And this case involves a U.S.
3 citizen.

4 THE COURT: Did you make this argument in your
5 opposition to petitioner's argument?

6 MR. BURNHAM: Of course we did, your Honor. We
7 cited *Kiyemba II*, and we said that *Kiyemba II* applies *Munaf*,
8 and that *Kiyemba II* makes clear petitioner's argument is
9 meritless. I don't recall if we cited Footnote IV of
10 *Kiyemba II*, but I certainly make the argument that *Kiyemba*
11 *II* applies to U.S. citizens like petitioner. And in
12 Footnote IV of the D.C. Circuit explains in very clear
13 terms.

14 THE COURT: Can you direct me to the page in which
15 you say that release from custody in the habeas sense just
16 means release from custody and not release to the United
17 States?

18 MR. BURNHAM: It's on page 1, your Honor, carrying
19 over to page 2. Quote, "The remedy that habeas corpus
20 furnishes is release from custody of the United States
21 government. It is not a device for requiring continued
22 custody by that government or preventing release by that
23 government to another sovereign with a legitimate interest."

24 THE COURT: But that does not -- I see it here.
25 And that's where you're saying is your argument that by

1 transferring the petitioner to another country would be
2 granting the habeas relief that he seeks?

3 MR. BURNHAM: I wouldn't put it quite like that,
4 but yes, I think it's the same thing. It's conceptually the
5 same thing that he would be released from U.S. custody which
6 is the purpose of this proceeding which is to decide whether
7 the United States has a legal and factual basis to continue
8 its custody of petitioner. And so I think that
9 relinquishing custody to another country would be complete
10 relief.

11 If I could talk briefly about the All Writs Act.
12 We've talked about this some. So the DC Circuit in the, one
13 of the two cases that became *Munaf* this case is called *Omar*
14 made the same point that we've talked about today, which was
15 that the Court should be able to enjoin transfer to preserve
16 its own jurisdiction over the habeas petition because the
17 petitioner in *Omar* had made the same argument petitioner is
18 making here, which is the United States cannot lawfully hold
19 me, and therefore, I have a right to habeas relief here in
20 the United States District Court. And the Court should
21 preserve its jurisdiction rather than allow the United
22 States to turn me over to the Iraqis.

23 And as you said with the review with the case.
24 The D.C. Circuit said, and I'm quoting from its opinion that
25 was reversed in *Munaf*. "The petitioner sought an injunction

1 prohibiting his transfer to Iraqi authorities in order to
2 preserve the District Court's jurisdiction to entertain his
3 habeas petition." And that's at *Omar versus Harvey*, 479
4 F.3rd 1 at page 11.

5 THE COURT: What's your response to the argument
6 that any transfer would be lawless absent a valid
7 extradition request, or some other legal justification? Why
8 shouldn't the government be required to file an extradition
9 request prior to transferring the petitioner?

10 MR. BURNHAM: Your Honor, I heard Mr. Hafetz make
11 that argument, and it was interesting because it's literally
12 the same argument he made in *Munaf*. I'm quoting from the
13 Supreme Court --

14 THE COURT: *Munaf* was different. There was no
15 need for an extradition request in *Munaf* because the
16 detainees were already in Iraq. Nobody was seeking to
17 extradite them anywhere, and they were in the custody of
18 multinational forces. And the issue is whether they should
19 be released -- whether Iraqi authorities should be allowed
20 to prosecute them after they're released from the custody of
21 multinational forces. There would be no need for an
22 extradition request in *Munaf*.

23 MR. BURNHAM: Right, but there's not a need for
24 one here because petitioner is not being held in the United
25 States.

1 THE COURT: Why hasn't there been an extradition
2 request from the country to which you seek to transfer him?

3 MR. BURNHAM: Because he's not being held in the
4 United States. And so what the Supreme Court held in *Munaf*
5 --

6 THE COURT: He's being held in the custody of the
7 United States. U.S. forces are holding him.

8 MR. BURNHAM: I know. Certainly your Honor. What
9 the Court said in *Munaf* was that it's not extradition when
10 you're being held by the military in a foreign country.
11 Very clear.

12 THE COURT: Can you articulate to me any prejudice
13 the United States government would suffer as a result of a
14 temporary injunction on -- I don't mean temporary injunction
15 because that's, I don't want to use a legal term of art. If
16 the government is precluded from transferring the detainee
17 for the pendency of his habeas petition, not indefinitely
18 but for the pendency of his habeas petition, what prejudice
19 does the government suffer?

20 MR. BURNHAM: Your Honor, we would suffer immense
21 prejudice. Petitioner is a dual national of two countries,
22 captured in Syria by the Syrian democratic forces --

23 THE COURT: What's the prejudice?

24 MR. BURNHAM: Oh, the prejudice would be to our
25 international relations with all the countries with an

1 interest in this person. The war against ISIL is a pretty
2 broad conflict involving a lot of nations --

3 THE COURT: Stop, I'm not trying to get into
4 geopolitical realities here.

5 MR. BURNHAM: Oh.

6 THE COURT: But articulated interest other than it
7 would be bad. I don't know what the countries are that have
8 an interest in this detainee. I don't know what his value
9 is and certainly that may be a matter of classified
10 information. But if the government is asking, if the
11 government is opposing a temporary holding of the status
12 quo. In other words, if the government is opposing a
13 transfer for a limited period of time can you articulate why
14 the government would be prejudiced if that transfer were not
15 allowed to go forward?

16 MR. BURNHAM: If your Honor would permit let me
17 answer in two steps. I think in sort of the abstract there
18 is a serious harm to our relations with other countries when
19 the -- let me be more specific because I think I get, that
20 one is not moving your Honor.

21 THE COURT: I rather not have the abstract.

22 MR. BURNHAM: How about this, the government would
23 be happy to by I hope by end of day if not tomorrow provide
24 ex parte and under seal a classified declaration explaining
25 to the Court to reassure the Court kind of what we're

1 thinking about with, as to petitioner.

2 THE COURT: I would welcome that.

3 MR. BURNHAM: Okay.

4 THE COURT: But you know it's got to be more
5 than -- it's got to be specific.

6 MR. BURNHAM: I understand, your Honor. I think
7 you can anticipate my abstract answer, but I'm hoping we can
8 provide you something a little more satisfying if we're
9 allowed to be more specific.

10 THE COURT: Why shouldn't that information be
11 provided to petitioner's counsel under seal?

12 MR. BURNHAM: Well, for one it's classified. I
13 have to talk -- maybe we could. I'd have to talk my
14 colleagues.

15 THE COURT: I would be more comfortable with that.
16 They're his arguments. They obviously can't make arguments
17 on his behalf if they're not given information as to the
18 government's position. But given that I find this, the
19 record in this case is sparse and it's not sparse because of
20 the ACLU's efforts. It's sparse because I've been given
21 limited information about this detainee. And I understand
22 there are always national security and military intelligence
23 reasons for not wanting to reveal information, but we are
24 talking about a United States citizen who does have rights.

25 So yes, I would, whatever additional information

1 you're inclined to provide I would prefer that it be under
2 seal and provided to his lawyers. I would require that
3 information by the end of the today.

4 MR. BURNHAM: We'll do everything we can, your
5 Honor.

6 THE COURT: Thank you.

7 MR. BURNHAM: Thank you.

8 THE COURT: Mr. Hafetz.

9 MR. HAFETZ: Your Honor, first just to state
10 clearly we would oppose any filing that's ex parte. If the
11 government wants to file under seal it can so do, but we're
12 talking about the liberty of an American citizen here. The
13 liberty of his detention and the liberty of his handover
14 rendition based on some vague assertions and unspecified
15 assertions of interest elsewhere, so I think we have an
16 absolute right as a matter of due process to be able to see
17 what that information is.

18 THE COURT: Mr. Burnham, you can redact to the
19 extent you can redact any information with any document to
20 render the, you know, to deal with the issue of
21 classification I would appreciate that, but I think
22 Mr. Hafetz does have a point. I would appreciate your
23 attempts in that regard.

24 MR. BURNHAM: We will do everything we can.

25 THE COURT: All right.

1 MR. HAFETZ: Counsel, I do and one of my
2 co-counsel have security clearance so if it's classified
3 that's not a basis to keep it from us.

4 Your Honor, whatever the government files just so
5 your Honor understands you know our position on the
6 framework. Under *Valentine* there is no executive discretion
7 quoting the decision, to surrender a U.S. citizen to a
8 foreign government unless that discretion is granted by law,
9 so there has to be a legal basis. And the DC Circuit in the
10 case the government was referring to *Omar 2*, the file on
11 case from *Munaf* says quote at page 24, "None of this the
12 foregoing discussion about inquiring into conditions on the
13 end, receiving end. None of this means that the executive
14 branch may detain or transfer Americans or individuals in
15 U.S. territory at will without judicial review of the
16 positive legal authority for the detention or transfer."

17 So mere expressions of interest are not a lawful
18 basis. It has to be an extradition or its functional
19 equivalent. *Munaf* is, *Munaf* recognizes as your Honor
20 recognized a limited exception to that rule where a
21 petitioner, a person voluntarily travels to a country, is
22 arrested in that country for violating that country's laws,
23 and is subject, and is subject to prosecution there.
24 Because that country has exclusive jurisdiction over crimes
25 committed in its territory. So in that sense it's not an

1 extradition. In the sense of *Valentine* they understood
2 sense a transfer to another country.

3 There has to be positive legal authority. We're
4 not here at this point nothing, we've not raised any issue
5 about what conditions might be like. That's not before the
6 Court, but there has to be a legal basis for the, for the
7 transfer.

8 So you know otherwise I mean the United States
9 can't forcibly bring people in, I'll just, I'll stick with
10 what's in the record. But as the counsel for the government
11 said brought him in to another country from Syria into Iraq,
12 and if that's a different situation than *Munaf*.

13 THE COURT: Maybe you were going to get to this,
14 but how do you respond to Mr. Burnham's argument that
15 transferring the detainee to another country is in fact
16 relief because they are being released from custody?

17 MR. HAFETZ: Thank you, your Honor, I do want to
18 address that. That is not release. Transfer, handover to
19 another country is not release. Release is release. It's a
20 relinquishment of custody resulting in the petitioner's
21 freedom. It is opening the jailhouse doors.

22 THE COURT: What about Mr. Burnham's argument that
23 they could basically just open the door of the facility to
24 which he's being detained and tell him he's free to go and
25 that would constitute relief under the petition for habeas

1 corpus? Or do you think it requires more? In other words,
2 it's possible that the United States could simply say okay,
3 here, you're free to leave and the detainee is picked up by
4 another country's forces immediately, but as far as the
5 government is concerned he's been granted complete relief.

6 Is that, is that how it is supposed to work?

7 MR. HAFETZ: We're seeking -- the release from
8 custody does not -- if this Court were to grant the habeas
9 petition and order his release it would mean opening the
10 jailhouse doors. At that point what else might or might not
11 be required depending on what the government said or
12 represented is not before the Court, but essentially yes,
13 he's seeking release from U.S. custody. And that is really
14 night and day with *Munaf*. *Munaf* because they were pending
15 criminal proceedings. And so relief there --

16 THE COURT: Was not possible.

17 MR. HAFETZ: Was not possible. What the Court
18 said was effectively -- it was essentially harboring someone
19 a fugitive from justice because Iraq had a sovereign
20 interest in prosecuting them for crimes committed on their
21 soil.

22 THE COURT: This Court does not have before it the
23 mechanics or logistics of what that release would entail
24 other than release, but I was curious as to your response
25 that transfer was equivalent to the response to the argument

1 that transfer to another country is equivalent to release.

2 MR. HAFETZ: No, I don't think if someone said
3 you're released, you're free to go. Release is not we're
4 releasing you, but we're handing you over to the custody of
5 another government. I don't think anyone would understand
6 that as release, and that's not how the cases look at it.

7 In *Munaf*, remember the Court talked about habeas
8 as in equitable remedy. And so, in that case what the Court
9 said was release was essentially, release and keeping
10 information from Iraq which wanted to prosecute the
11 detainees was not consistent with habeas as an equitable
12 remedy. What a release order might look like here if the
13 Court were to ultimately order one is a different question,
14 but at bottom release is not transfer to another country nor
15 are we asking for continued U.S. custody. The United States
16 could terminate these proceedings today by authorizing his
17 release, but they want to continue holding him, and or hand
18 him over to another government. That's not release.

19 I just, we talked about *Hamdi* before in response
20 to your Honor's order about the role of the courts. And
21 again just to reiterate the language from *Hamdi* that the,
22 absent suspension of habeas and there's no suspension here
23 the Constitution envisions a role for all three branches
24 when the liberty of a citizen is at stake. I'm paraphrasing
25 but that's essentially the quote. And it's all three

1 branches that's the court's. It's also Congress. There has
2 to be a legal basis to hand over a citizen. Typically
3 that's an extradition statute or a treaty or some form of
4 positive legal authority which as I read before is
5 reiterated in *Omar II*.

6 I have, if your Honor doesn't have more questions
7 I have just two final points to make. One is that the, as
8 your Honor pointed out, the government does not get to do an
9 end run around this Court's habeas jurisdiction. It cannot
10 circumvent this jurisdiction by pretending that transfer is
11 the same as release. Release is the way if the government
12 wants to moot a habeas petition it can release the citizen
13 from custody. There's no, you know, we cannot stand in the
14 way of that and that is what, that is the -- because that's
15 the remedy that this petitioner seeks.

16 THE COURT: Or they can charge him?

17 MR. HAFETZ: Well, they can charge him, correct,
18 your Honor. They can charge him with a crime. Again, they
19 have to have a lawful basis to detain him or transfer him.
20 There's no charges against him by the United States. Were
21 the United States to charge him he would have a right under
22 the Constitution to a trial and the various other rights
23 your Honor is familiar with. But to contest those charges,
24 but that would be a basis to detain him. It can't operate
25 outside the boundaries of law. And, your Honor, as your

1 Honor noted we're merely seeking limited relief until the
2 injunction until the Court can decide his habeas petition.

3 And to conclude in light of the government's
4 representations today which reiterate what was in its briefs
5 that it is under no obligation or no restriction to transfer
6 the petitioner to any country at anytime, we respectfully
7 request that the Court order the, prohibit the respondent in
8 addition to the ultimate relief we've asked for in our
9 papers, prohibit his transfer until the Court can decide
10 this motion.

11 THE COURT: Thank you, Mr. Hafetz. Mr. Burnham,
12 let me ask you, I know that the ACLU has requested -- their
13 motion is for, for an order prohibiting the transfer of the
14 detainee pending his resolution of his petition for habeas
15 corpus. With regard to the last request Mr. Hafetz just
16 made, which is a request that the government be prohibited
17 from transferring the detainee pending my ruling on this
18 motion for preliminary injunction, is it the government's
19 intention to transfer the detainee within the next 48 hours?

20 MR. BURNHAM: You mind if I just speak with my
21 co-counsel for a second?

22 THE COURT: Please.

23 [Brief pause.]

24 MR. BURNHAM: Your Honor, I have no basis to think
25 that's going to happen. But our -- so I'm not aware of any

1 intention to do that, but our position is right now we have
2 the authority to relinquish custody of him to another
3 sovereign as soon as another sovereign is ready.

4 THE COURT: Thank you. Your last request I will,
5 I'll rule on it within the, probably shortly.

6 MR. HAFETZ: Thank you, your Honor.

7 THE COURT: Thank you, all.

8 [Thereupon, the proceedings adjourned at 12:33
9 p.m.]

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, Cathryn J. Jones, an Official Court Reporter for the United States District Court of the District of Columbia, do hereby certify that I reported, by machine shorthand, the proceedings had and testimony adduced in the above case.

I further certify that the foregoing 45 pages constitute the official transcript of said proceedings as transcribed from my machine shorthand notes.

In witness whereof, I have hereto subscribed my name, this the 22nd day of February, 2018.

/s/_Cathryn J. Jones
Cathryn J. Jones, RPR
Official Court Reporter

<p>MR. BURNHAM: [59] MR. HAFETZ: [27] 3/7 4/2 5/5 5/10 6/1 6/19 7/11 8/7 9/1 10/4 11/3 11/16 11/22 13/6 14/12 15/2 15/16 16/6 16/10 38/8 38/25 40/16 41/6 41/16 42/1 43/16 45/5 THE COURT: [86] THE DEPUTY CLERK: [1] 3/1</p>	<p>Absolutely [1] 22/24 abstract [3] 36/17 36/21 37/7 access [1] 18/19 according [1] 26/1 accused [1] 7/16 acknowledges [1] 10/2 ACLU [13] 3/10 3/11 18/18 18/19 19/4 20/16 21/17 21/20 25/8 27/25 28/17 28/19 44/12 ACLU's [1] 37/20 Act [3] 15/2 16/15 33/11 Action [1] 3/3 actually [1] 21/12 addition [2] 6/6 44/8 additional [2] 13/8 37/25 address [3] 10/6 11/23 40/18 addressed [1] 10/8 adduced [1] 46/5 adjourned [1] 45/8 administration [1] 12/6 adverse [1] 28/25 affairs [1] 11/1 after [2] 23/14 34/20 again [10] 4/3 7/6 14/11 15/4 16/23 19/25 20/4 20/16 42/21 43/18 against [3] 9/18 36/1 43/20 agent [1] 6/8 agree [4] 6/1 14/22 16/11 22/22 agrees [1] 28/7 aided [1] 2/12 alien [4] 10/9 15/5 15/21 20/25 all [22] 3/19 3/24 5/23 6/25 6/25 15/2 16/6 16/9 16/15 16/19 19/7 19/12 21/8 24/1 26/25 31/1 33/11 35/25 38/25 42/23 42/25 45/7 allegation [1] 4/24 alleged [1] 7/8 allegedly [4] 5/21 15/10 19/16 19/20 allow [2] 22/1 33/21 allowed [4] 22/4 34/19 36/15 37/9 already [1] 34/16 also [4] 8/22 9/13 16/25 43/1 although [1] 9/24 always [3] 13/3 23/6 37/22 am [4] 11/13 11/19 11/20 12/25 AMERICAN [16] 1/3 1/14 1/17 3/3 4/6 8/1 12/9 12/14 12/16 13/17 13/21 13/24 14/2 15/24 17/5 38/12 Americans [1] 39/14 amicus [1] 29/19 analysis [1] 7/9 another [40] 4/14 5/1 6/4 9/7 12/10 14/16 15/22 17/11 19/1 21/4 22/5 22/19 23/4 23/11 24/23 25/23 26/1 26/12 26/15 27/2 27/3 27/14 27/16 27/19 29/12 29/21 32/23 33/1 33/9 40/2 40/11 40/15 40/19 41/4 42/1 42/5 42/14 42/18 45/2 45/3 answer [4] 26/20 26/21 36/17 37/7 anticipate [1] 37/7 any [21] 5/17 7/15 8/4 8/6 14/10 14/16 14/17 14/18 17/16 20/1 21/17 28/15 28/20 34/6 35/12 38/10 38/19 38/19 40/4 44/6 44/25 anyone [2] 18/23 42/5 anything [2] 18/1 18/11 anytime [1] 44/6</p>	<p>anywhere [2] 28/18 34/17 apologize [1] 28/6 appearances [3] 1/12 2/1 5/23 applicable [1] 31/22 applies [3] 24/25 32/7 32/11 apply [3] 12/20 16/12 30/19 appreciate [3] 3/22 38/21 38/22 approach [1] 3/5 appropriate [1] 4/2 appropriately [1] 22/23 Arabia [6] 16/25 23/19 25/8 25/11 28/2 31/3 are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15 areas [1] 11/20 argue [3] 15/25 18/22 18/23 arguendo [2] 14/8 20/25 argument [30] 4/1 8/4 12/13 14/24 15/2 16/9 16/10 21/19 21/20 21/25 27/24 27/25 27/25 28/12 28/24 29/14 30/9 31/23 32/4 32/5 32/8 32/10 32/25 33/17 34/5 34/11 34/12 40/14 40/22 41/25 arguments [5] 13/20 13/21 21/18 37/16 37/16 arm [1] 6/8 armed [1] 7/3 around [2] 23/3 43/9 arranging [1] 3/19 arrested [2] 23/13 39/22 art [2] 3/10 35/15 Arthur [1] 1/17 articulate [2] 35/12 36/13 articulated [1] 36/6 as [65] ask [4] 4/19 5/9 23/25 44/12 asked [1] 44/8 asking [7] 5/19 8/21 8/24 8/24 24/1 36/10 42/15 assertions [2] 38/14 38/15 asserts [1] 7/7 assume [2] 11/10 23/25 assumed [1] 20/25 attempts [1] 38/23 Attorney [3] 1/13 1/14 1/17 Attorney-at-Law [3] 1/13 1/14 1/17 authorities [4] 4/22 30/13 34/1 34/19 authority [9] 8/12 10/25 12/20 16/16 27/17 39/16 40/3 43/4 45/2 authorization [1] 8/2 authorized [3] 4/7 5/12 5/14 authorizes [1] 8/3 authorizing [1] 42/16 Avenue [4] 1/18 1/22 2/3 2/8 aware [1] 44/25</p>
<p>.</p>	<p>Act [3] 15/2 16/15 33/11</p>	<p>Arabic [1] 28/23</p>
<p>.x [1] 1/7</p>	<p>Action [1] 3/3</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15</p>
<p>/</p>	<p>actually [1] 21/12</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15</p>
<p>/s [1] 46/13</p>	<p>addition [2] 6/6 44/8</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15</p>
<p>1</p>	<p>address [3] 10/6 11/23 40/18</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15</p>
<p>10004 [1] 1/16 11 [1] 34/4 11:31 [1] 1/7 125 [1] 1/15 12:33 [1] 45/8 17-2069 [2] 1/4 3/3 18 [1] 1/6 18th [1] 1/15</p>	<p>addressed [1] 10/8 adduced [1] 46/5 adjourned [1] 45/8 administration [1] 12/6 adverse [1] 28/25 affairs [1] 11/1 after [2] 23/14 34/20 again [10] 4/3 7/6 14/11 15/4 16/23 19/25 20/4 20/16 42/21 43/18 against [3] 9/18 36/1 43/20 agent [1] 6/8 agree [4] 6/1 14/22 16/11 22/22 agrees [1] 28/7 aided [1] 2/12 alien [4] 10/9 15/5 15/21 20/25 all [22] 3/19 3/24 5/23 6/25 6/25 15/2 16/6 16/9 16/15 16/19 19/7 19/12 21/8 24/1 26/25 31/1 33/11 35/25 38/25 42/23 42/25 45/7 allegation [1] 4/24 alleged [1] 7/8 allegedly [4] 5/21 15/10 19/16 19/20 allow [2] 22/1 33/21 allowed [4] 22/4 34/19 36/15 37/9 already [1] 34/16 also [4] 8/22 9/13 16/25 43/1 although [1] 9/24 always [3] 13/3 23/6 37/22 am [4] 11/13 11/19 11/20 12/25 AMERICAN [16] 1/3 1/14 1/17 3/3 4/6 8/1 12/9 12/14 12/16 13/17 13/21 13/24 14/2 15/24 17/5 38/12 Americans [1] 39/14 amicus [1] 29/19 analysis [1] 7/9 another [40] 4/14 5/1 6/4 9/7 12/10 14/16 15/22 17/11 19/1 21/4 22/5 22/19 23/4 23/11 24/23 25/23 26/1 26/12 26/15 27/2 27/3 27/14 27/16 27/19 29/12 29/21 32/23 33/1 33/9 40/2 40/11 40/15 40/19 41/4 42/1 42/5 42/14 42/18 45/2 45/3 answer [4] 26/20 26/21 36/17 37/7 anticipate [1] 37/7 any [21] 5/17 7/15 8/4 8/6 14/10 14/16 14/17 14/18 17/16 20/1 21/17 28/15 28/20 34/6 35/12 38/10 38/19 38/19 40/4 44/6 44/25 anyone [2] 18/23 42/5 anything [2] 18/1 18/11 anytime [1] 44/6</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15 areas [1] 11/20 argue [3] 15/25 18/22 18/23 arguendo [2] 14/8 20/25 argument [30] 4/1 8/4 12/13 14/24 15/2 16/9 16/10 21/19 21/20 21/25 27/24 27/25 27/25 28/12 28/24 29/14 30/9 31/23 32/4 32/5 32/8 32/10 32/25 33/17 34/5 34/11 34/12 40/14 40/22 41/25 arguments [5] 13/20 13/21 21/18 37/16 37/16 arm [1] 6/8 armed [1] 7/3 around [2] 23/3 43/9 arranging [1] 3/19 arrested [2] 23/13 39/22 art [2] 3/10 35/15 Arthur [1] 1/17 articulate [2] 35/12 36/13 articulated [1] 36/6 as [65] ask [4] 4/19 5/9 23/25 44/12 asked [1] 44/8 asking [7] 5/19 8/21 8/24 8/24 24/1 36/10 42/15 assertions [2] 38/14 38/15 asserts [1] 7/7 assume [2] 11/10 23/25 assumed [1] 20/25 attempts [1] 38/23 Attorney [3] 1/13 1/14 1/17 Attorney-at-Law [3] 1/13 1/14 1/17 authorities [4] 4/22 30/13 34/1 34/19 authority [9] 8/12 10/25 12/20 16/16 27/17 39/16 40/3 43/4 45/2 authorization [1] 8/2 authorized [3] 4/7 5/12 5/14 authorizes [1] 8/3 authorizing [1] 42/16 Avenue [4] 1/18 1/22 2/3 2/8 aware [1] 44/25</p>
<p>2</p>	<p>against [3] 9/18 36/1 43/20</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15</p>
<p>20 [1] 2/3 20001 [2] 2/4 2/8 20008 [1] 1/19 2018 [2] 1/6 46/11 20530 [1] 1/23 2069 [2] 1/4 3/3 22nd [1] 46/11 24 [1] 39/11</p>	<p>addressed [1] 10/8 adduced [1] 46/5 adjourned [1] 45/8 administration [1] 12/6 adverse [1] 28/25 affairs [1] 11/1 after [2] 23/14 34/20 again [10] 4/3 7/6 14/11 15/4 16/23 19/25 20/4 20/16 42/21 43/18 against [3] 9/18 36/1 43/20 agent [1] 6/8 agree [4] 6/1 14/22 16/11 22/22 agrees [1] 28/7 aided [1] 2/12 alien [4] 10/9 15/5 15/21 20/25 all [22] 3/19 3/24 5/23 6/25 6/25 15/2 16/6 16/9 16/15 16/19 19/7 19/12 21/8 24/1 26/25 31/1 33/11 35/25 38/25 42/23 42/25 45/7 allegation [1] 4/24 alleged [1] 7/8 allegedly [4] 5/21 15/10 19/16 19/20 allow [2] 22/1 33/21 allowed [4] 22/4 34/19 36/15 37/9 already [1] 34/16 also [4] 8/22 9/13 16/25 43/1 although [1] 9/24 always [3] 13/3 23/6 37/22 am [4] 11/13 11/19 11/20 12/25 AMERICAN [16] 1/3 1/14 1/17 3/3 4/6 8/1 12/9 12/14 12/16 13/17 13/21 13/24 14/2 15/24 17/5 38/12 Americans [1] 39/14 amicus [1] 29/19 analysis [1] 7/9 another [40] 4/14 5/1 6/4 9/7 12/10 14/16 15/22 17/11 19/1 21/4 22/5 22/19 23/4 23/11 24/23 25/23 26/1 26/12 26/15 27/2 27/3 27/14 27/16 27/19 29/12 29/21 32/23 33/1 33/9 40/2 40/11 40/15 40/19 41/4 42/1 42/5 42/14 42/18 45/2 45/3 answer [4] 26/20 26/21 36/17 37/7 anticipate [1] 37/7 any [21] 5/17 7/15 8/4 8/6 14/10 14/16 14/17 14/18 17/16 20/1 21/17 28/15 28/20 34/6 35/12 38/10 38/19 38/19 40/4 44/6 44/25 anyone [2] 18/23 42/5 anything [2] 18/1 18/11 anytime [1] 44/6</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15 areas [1] 11/20 argue [3] 15/25 18/22 18/23 arguendo [2] 14/8 20/25 argument [30] 4/1 8/4 12/13 14/24 15/2 16/9 16/10 21/19 21/20 21/25 27/24 27/25 27/25 28/12 28/24 29/14 30/9 31/23 32/4 32/5 32/8 32/10 32/25 33/17 34/5 34/11 34/12 40/14 40/22 41/25 arguments [5] 13/20 13/21 21/18 37/16 37/16 arm [1] 6/8 armed [1] 7/3 around [2] 23/3 43/9 arranging [1] 3/19 arrested [2] 23/13 39/22 art [2] 3/10 35/15 Arthur [1] 1/17 articulate [2] 35/12 36/13 articulated [1] 36/6 as [65] ask [4] 4/19 5/9 23/25 44/12 asked [1] 44/8 asking [7] 5/19 8/21 8/24 8/24 24/1 36/10 42/15 assertions [2] 38/14 38/15 asserts [1] 7/7 assume [2] 11/10 23/25 assumed [1] 20/25 attempts [1] 38/23 Attorney [3] 1/13 1/14 1/17 Attorney-at-Law [3] 1/13 1/14 1/17 authorities [4] 4/22 30/13 34/1 34/19 authority [9] 8/12 10/25 12/20 16/16 27/17 39/16 40/3 43/4 45/2 authorization [1] 8/2 authorized [3] 4/7 5/12 5/14 authorizes [1] 8/3 authorizing [1] 42/16 Avenue [4] 1/18 1/22 2/3 2/8 aware [1] 44/25</p>
<p>3</p>	<p>against [3] 9/18 36/1 43/20</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15</p>
<p>333 [1] 2/8</p>	<p>agent [1] 6/8</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15</p>
<p>4</p>	<p>agree [4] 6/1 14/22 16/11 22/22</p>	<p>are [24] 4/10 6/3 9/24 10/19 11/19 12/1 12/24 13/1 13/5 19/3 22/8 24/16 27/6 28/11 30/6 30/7 30/8 35/7 36/7 37/22 37/23 39/17 40/16 42/15</p>
<p>4301 [1] 1/18 434 [1] 1/19 45 [1] 46/7 479 [1] 34/3 48 [1] 44/19</p>	<p>agrees [1] 28/7 aided [1] 2/12 alien [4] 10/9 15/5 15/21 20/25 all [22] 3/19 3/24 5/23 6/25 6/25 15/2 16/6 16/9 16/15 16/19 19/7 19/12 21/8 24/1 26/25 31/1 33/11 35/25 38/25 42/23 42/25 45/7 allegation [1] 4/24 alleged [1] 7/8 allegedly [4] 5/21 15/10 19/16 19/20 allow [2] 22/1 33/21 allowed [4] 22/4 34/19 36/15 37/9 already [1] 34/16 also [4] 8/22 9/13 16/25 43/1 although [1] 9/24 always [3] 13/3 23/6 37/22 am [4] 11/13 11/19 11/20 12/25 AMERICAN [16] 1/3 1/14 1/17 3/3 4/6 8/1 12/9 12/14 12/16 13/17 13/21 13/24 14/2 15/24 17/5 38/12 Americans [1] 39/14 amicus [1] 29/19 analysis [1] 7/9 another [40] 4/14 5/1 6/4 9/7 12/10 14/16 15/22 17/11 19/1 21/4 22/5 22/19 23/4 23/11 24/23 25/23 26/1 26/12 26/15 27/2 27/3 27/14 27/16 27/19 29/12 29/21 32/23 33/1 33/9 40/2 40/11 40/15 40/19 41/4 42/1 42/5 42/14 42/18 45/2 45/3 answer [4] 26/20 26/21 36/17 37/7 anticipate [1] 37/7 any [21] 5/17 7/15 8/4 8/6 14/10 14/16 14/17 14/18 17/16 20/1 21/17 28/15 28/20 34/6 35/12 38/10 38/19 38/1</p>	

B

bases [1] 21/14
basically [2] 8/11 40/23
basis [24] 4/8 4/9 5/7 7/15 7/22 7/25 8/9 9/3 9/8 9/9 14/10 14/17 14/19 15/25 26/9 33/7 39/3 39/9 39/18 40/6 43/2 43/19 43/24 44/24
be [80]
became [1] 33/13
because [40] 4/20 5/13 6/3 8/10 8/17 8/19 9/12 9/16 10/10 12/1 12/13 13/14 15/9 17/1 17/4 18/21 19/23 21/4 25/2 25/22 27/12 28/14 29/9 30/12 30/23 31/1 33/16 34/11 34/15 34/24 35/3 35/15 36/19 37/19 37/20 39/24 40/16 41/14 41/19 43/14
bedrock [1] 4/5
been [27] 6/17 6/17 8/6 8/18 8/19 9/21 10/24 11/9 11/9 12/18 14/21 15/15 16/4 20/18 20/20 22/3 26/5 26/6 26/7 26/10 30/11 30/13 31/12 31/17 35/1 37/20 41/5
before [8] 1/10 19/15 23/1 40/5 41/12 41/22 42/19 43/4
behalf [7] 3/14 9/15 16/23 23/18 26/19 28/12 37/17
being [19] 6/6 6/16 11/11 13/15 15/4 15/18 17/23 18/21 19/17 20/19 22/2 23/13 24/11 34/24 35/3 35/6 35/10 40/16 40/24
believe [2] 7/3 31/25
Bill [1] 12/8
bit [1] 14/12
blank [2] 14/1 14/14
bona [1] 22/18
borders [1] 6/23
both [3] 9/14 20/17 21/8
bottom [1] 42/14
boundaries [1] 43/25
branch [2] 26/10 39/14
branches [2] 42/23 43/1
brief [3] 4/20 31/24 44/23
briefing [1] 3/21
briefly [1] 33/11
briefs [1] 44/4
bring [1] 40/9
broad [2] 1/15 36/2
broader [1] 11/24
brought [3] 6/23 23/25 40/11
burden [6] 18/6 18/7 18/13 19/4 19/10 19/12
BURNHAM [8] 1/21 3/14 16/23 25/6 26/11 30/6 38/18 44/11
Burnham's [2] 40/14 40/22
business [1] 13/23

C

CA [1] 1/4
called [1] 33/13
calling [1] 25/17
can [26] 4/11 9/1 9/5 11/15 11/15 13/4 13/5 20/24 23/2 30/17 32/14 35/12 36/13 37/7 37/7 38/4 38/11 38/18 38/19 38/24 43/12 43/16 43/17 43/18 44/2 44/9
can't [11] 8/1 16/3 21/7 22/6 26/20 26/21 26/24 28/18 37/16 40/9 43/24

cannot [6] 4/5 21/4 23/23 33/18 43/9 43/13
captured [3] 17/2 17/22 35/22
carry [1] 19/12
carrying [1] 32/18
case [46] 4/21 4/21 5/20 5/24 6/14 6/18 7/23 9/13 10/7 10/8 11/7 12/10 12/13 13/8 13/9 13/12 13/15 13/20 14/19 14/20 16/24 19/24 20/11 20/13 21/3 22/2 23/24 24/5 24/17 25/15 25/20 26/12 28/2 28/22 30/15 30/19 31/5 31/15 32/2 33/13 33/23 37/19 39/10 39/11 42/8 46/6
cases [10] 4/16 9/14 12/1 12/3 12/23 15/8 21/9 30/9 33/13 42/6
categorical [1] 27/13
Cathryn [4] 2/6 46/2 46/13 46/14
caution [1] 13/3
cautioned [1] 11/20
celebrated [1] 12/3
cell [1] 18/16
central [1] 25/2
certainly [10] 6/12 18/20 18/24 22/8 25/16 29/14 32/1 32/10 35/8 36/9
CERTIFICATE [1] 46/1
certify [2] 46/4 46/7
challenge [2] 4/11 14/15
challenging [1] 22/14
change [2] 7/9 7/10
charge [5] 8/10 43/16 43/17 43/18 43/21
charged [2] 7/18 20/18
charges [6] 5/24 9/19 26/12 27/2 43/20 43/23
check [2] 14/2 14/14
Chief [1] 13/16
choose [1] 10/18
choosing [2] 30/7 30/8
CHUTKAN [1] 1/10
Circuit [13] 10/8 15/5 15/21 16/12 20/14 20/23 25/1 31/20 31/21 32/12 33/12 33/24 39/9
Circuit's [5] 4/17 20/9 21/9 27/18 27/19
circumstance [2] 5/5 21/11
circumstances [3] 11/22 21/8 27/6
circumvent [1] 43/10
cited [2] 32/7 32/9
citizen [28] 4/6 5/17 8/1 10/17 12/5 12/14 13/18 13/21 13/25 14/16 15/25 16/3 16/24 16/25 23/4 25/12 28/7 29/24 30/1 30/18 31/15 32/3 37/24 38/12 39/7 42/24 43/2 43/12
citizens [17] 6/4 10/19 11/25 12/9 12/17 12/21 13/24 14/2 15/10 15/12 20/14 21/2 24/25 30/3 31/10 31/22 32/11
citizenship [1] 17/4
CIVIL [7] 1/3 1/14 1/17 1/22 2/3 3/3 3/3
claim [2] 4/13 5/13
clarify [1] 5/6
classification [1] 38/21
classified [6] 17/8 18/22 36/9 36/24 37/12 39/2
clear [6] 8/23 9/12 14/11 32/8 32/12 35/11
clearance [1] 39/2

clearer [1] 7/11
clearly [2] 13/25 38/10
closest [1] 13/9
co [2] 39/2 44/21
co-counsel [2] 39/2 44/21
colleagues [2] 3/9 37/14
COLUMBIA [4] 1/2 1/18 3/11 46/4
combatant [6] 8/12 8/15 8/15 9/25 11/8 14/21
combatants [3] 10/15 26/7 31/12
come [4] 3/18 9/3 9/8 12/14
comes [2] 11/25 14/2
comfortable [1] 37/15
commission [1] 12/11
committed [16] 4/24 4/24 5/21 6/5 6/15 7/9 7/21 8/6 14/20 15/11 15/12 19/16 19/16 19/20 39/25 41/20
committing [1] 7/17
complete [10] 19/21 25/12 25/25 29/10 29/13 29/15 29/17 30/4 33/9 41/5
completely [1] 30/11
complicated [1] 13/13
computer [1] 2/12
computer-aided [1] 2/12
concedes [1] 28/2
conceptual [1] 24/22
conceptually [1] 33/4
concern [1] 12/23
concerned [1] 41/5
conclude [1] 44/3
conditions [3] 26/25 39/12 40/5
confirmed [1] 14/21
conflict [1] 36/2
confused [1] 29/8
Congress [1] 43/1
conjunction [3] 20/5 27/12 30/8
Connecticut [1] 1/18
consideration [1] 6/14
considered [2] 6/12 24/8
consistent [2] 10/13 42/11
constitute [2] 40/25 46/8
constitutes [1] 29/17
Constitution [3] 2/8 42/23 43/22
constitutional [1] 21/1
Cont'd [1] 2/1
contemplating [1] 25/24
contest [1] 43/23
continue [3] 10/4 33/7 42/17
continued [5] 4/13 21/14 29/1 32/21 42/15
control [4] 22/19 23/12 25/16 25/19
controlled [2] 17/3 17/22
controlling [1] 6/11
core [1] 29/21
corpus [17] 11/6 11/6 19/3 20/10 22/3 22/11 22/22 23/1 23/15 24/8 25/3 27/15 28/17 29/6 32/19 41/1 44/15
correct [7] 6/19 6/20 6/20 9/1 9/2 9/2 43/17
correctly [1] 7/4
could [15] 4/9 15/6 15/23 19/13 20/20 21/23 24/18 30/13 31/12 31/17 33/11 37/13 40/23 41/2 42/16
couldn't [1] 31/11
counsel [6] 3/5 37/11 39/1 39/2 40/10 44/21

C

countries [5] 28/5 35/21 35/25 36/7 36/18
country [52]
country's [2] 39/22 41/4
couple [1] 13/7
course [5] 22/16 22/24 29/22 31/7 32/6
court [73]
court's [14] 4/10 4/17 6/14 9/12 9/14 11/21 13/10 16/16 29/20 32/1 32/1 34/2 43/1 43/9
courts [7] 10/24 11/19 11/19 13/2 13/21 21/3 42/20
coy [1] 26/23
crime [2] 8/6 43/18
crimes [14] 4/25 5/21 6/5 6/15 7/9 7/17 7/20 15/11 15/12 19/16 19/19 20/18 39/24 41/20
criminal [10] 6/9 6/22 7/19 8/9 9/17 26/12 26/14 27/2 27/3 41/15
curious [1] 41/24
currently [3] 17/7 17/23 23/13
custody [46] 4/13 4/15 4/23 10/21 13/5 16/5 17/11 17/12 21/5 22/12 22/15 22/18 22/18 23/9 24/3 24/4 24/22 24/23 25/4 25/5 25/9 25/11 25/14 25/15 25/25 31/2 31/3 31/16 32/15 32/16 32/20 32/22 33/5 33/8 33/9 34/17 34/20 35/6 40/16 40/20 41/8 41/13 42/4 42/15 43/13 45/2
custody does [1] 41/8

D

D.C [13] 1/5 2/8 4/17 15/21 20/9 20/23 25/1 27/18 27/19 31/20 31/21 32/12 33/24
day [3] 36/23 41/14 46/11
days [1] 12/12
DC [10] 1/19 1/23 2/4 10/8 15/5 16/12 20/14 21/9 33/12 39/9
deal [1] 38/20
dealt [1] 12/4
decide [4] 4/11 33/6 44/2 44/9
deciding [2] 6/13 13/1
decision [10] 4/17 4/18 9/11 9/13 17/2 20/9 27/14 32/1 32/2 39/7
decisions [2] 9/14 13/3
declaration [1] 36/24
defeat [2] 18/12 19/2
Defendant [2] 1/6 1/21
definitely [1] 28/9
democratic [5] 17/3 17/5 24/5 31/4 35/22
demonstrate [1] 5/1
DEPARTMENT [3] 1/21 2/2 3/15
depending [1] 41/11
designated [2] 11/8 26/7
desire [2] 4/22 5/14
detain [5] 15/25 27/21 39/14 43/19 43/24
detained [8] 8/14 8/15 9/15 9/25 21/15 24/11 29/1 40/24
detainee [19] 5/3 5/20 8/7 20/3 22/5 22/14 23/4 23/18 25/7 27/15 27/20 35/16 36/8 37/21 40/15 41/3 44/14 44/17 44/19

detainee's [1] 18/20
detainees [8] 6/15 10/9 15/5 15/21 20/18 20/25 34/16 42/11
detection [1] 20/12
detention [13] 4/12 10/19 12/22 14/15 26/9 27/10 27/16 29/21 29/22 30/16 31/10 38/13 39/16
detentions [1] 13/23
determine [1] 19/4
device [1] 32/21
did [8] 5/3 16/8 17/5 21/2 31/9 31/23 32/4 32/6
didn't [3] 19/12 28/10 31/20
difference [1] 8/21
different [14] 6/1 6/3 6/3 8/17 12/2 14/6 22/21 25/15 25/20 29/16 30/11 34/14 40/12 42/13
direct [1] 32/14
directly [1] 12/1
disagree [1] 11/24
discretion [2] 39/6 39/8
discussion [1] 39/12
disposition [1] 26/1
dispute [2] 8/13 12/19
distinction [2] 20/23 20/24
distinctions [1] 26/4
distinguished [2] 20/13 20/17
DISTRICT [12] 1/1 1/2 1/11 1/18 2/7 3/11 21/3 27/14 33/20 34/2 46/3 46/3
Division [2] 1/22 2/3
do [25] 3/25 4/1 4/18 7/10 11/3 11/21 13/5 15/1 18/25 19/25 21/7 22/4 23/3 25/19 31/5 38/4 38/11 38/24 39/1 40/14 40/17 41/1 43/8 45/1 46/4
doable [1] 22/9
Docket [1] 1/4
document [1] 38/19
does [14] 7/9 7/10 7/10 12/22 21/9 24/25 31/14 32/24 35/19 37/24 38/22 41/8 41/22 43/8
doesn't [8] 12/20 20/13 20/14 20/24 21/7 25/3 31/16 43/6
doing [2] 29/7 30/6
don't [20] 5/8 6/1 12/19 12/20 15/3 17/25 17/25 18/10 18/20 24/7 26/22 26/23 26/23 32/9 35/14 35/15 36/7 36/8 42/2 42/5
done [1] 29/2
door [6] 23/14 24/11 24/12 24/18 25/19 40/23
doors [3] 15/24 40/21 41/10
doubt [1] 23/16
down [5] 12/25 13/4 14/12 18/14 26/4
drill [1] 26/4
Dror [2] 1/14 3/10
dual [2] 17/1 35/21
due [2] 14/1 38/16
during [3] 13/23 22/25 28/16

E

each [1] 30/9
effect [1] 25/22
effectively [1] 41/18
efforts [1] 37/20
either [3] 15/8 19/22 20/10
else [2] 30/14 41/10
elsewhere [1] 38/15

emergency [1] 12/13
end [8] 22/4 23/3 29/7 36/23 38/3 39/13 39/13 43/9
ended [1] 28/18
enemy [8] 8/12 8/14 8/15 9/25 10/15 11/8 14/21 26/7
enforcement [2] 11/10 11/11
enjoin [5] 9/22 21/4 21/21 27/20 33/15
enjoining [3] 17/10 21/10 21/13
enough [2] 8/7 29/5
ensure [1] 16/3
entail [1] 41/23
enter [3] 10/10 15/6 16/16
entered [2] 9/16 15/10
entertain [1] 34/2
entire [1] 8/13
entirely [1] 9/12
envisions [1] 42/23
equally [2] 24/25 31/21
equitable [2] 42/8 42/11
equities [1] 16/15
equivalent [4] 21/5 39/19 41/25 42/1
Esquire [1] 1/13
essential [1] 16/1
essentially [8] 6/8 6/9 6/21 15/13 41/12 41/18 42/9 42/25
evade [2] 23/6 29/9
evading [2] 23/7 29/7
evaluate [2] 7/22 9/5
even [10] 6/14 7/3 9/10 13/23 14/1 17/25 18/20 25/23 27/5 29/2
ever [1] 28/18
every [3] 21/10 22/1 22/4
everyone [1] 3/17
everyone's [1] 3/22
everything [3] 24/24 38/4 38/24
ex [4] 12/4 12/10 36/24 38/10
ex parte [1] 12/4
exactly [2] 12/2 26/2
example [2] 14/5 14/7
exception [1] 39/20
exclusive [2] 6/22 39/24
executive [7] 10/19 10/25 12/24 13/22 26/10 39/6 39/13
exercise [1] 13/10
expectation [1] 27/21
explained [1] 16/12
explaining [1] 36/24
explains [1] 32/12
expressed [1] 12/23
expressions [1] 39/17
extensively [1] 32/2
extent [2] 27/20 38/19
extradite [2] 7/22 34/17
extradition [10] 9/5 34/7 34/8 34/15 34/22 35/1 35/9 39/18 40/1 43/3
extraordinary [1] 11/22

F

F.3rd [1] 34/4
facilities [1] 24/11
facility [6] 14/4 14/6 23/13 24/2 30/17 40/23
facing [4] 6/17 8/19 26/12 27/1
fact [6] 6/15 13/10 18/18 30/10 31/20 40/15
factors [4] 6/12 16/12 16/14 16/18

F
facts [4] 12/11 20/17 27/7 31/19
factual [3] 20/23 26/9 33/7
familiar [2] 9/13 43/23
far [5] 6/18 19/21 19/24 26/23 41/4
favor [1] 16/15
February [1] 46/11
few [1] 16/7
fide [1] 22/18
file [3] 34/8 38/11 39/10
filed [2] 9/22 22/3
files [1] 39/4
filing [1] 38/10
final [1] 43/7
find [3] 18/24 26/8 37/18
first [3] 11/23 24/18 38/9
Floor [1] 1/15
focused [1] 13/8
footnote [4] 21/8 31/25 32/9 32/12
force [2] 9/15 13/15
forces [14] 4/23 7/2 7/3 7/5 17/3 17/5
17/6 24/5 31/4 34/18 34/21 35/7 35/22
41/4
forcibly [2] 6/23 40/9
foregoing [2] 39/12 46/7
foreign [8] 5/18 8/2 14/10 24/25 26/19
31/22 35/10 39/8
form [1] 43/3
formally [1] 7/20
forth [1] 19/10
forward [3] 9/3 9/8 36/15
found [1] 24/9
FOUNDATION [3] 1/3 1/15 3/4
four [1] 16/4
framework [1] 39/6
France [3] 7/17 7/18 7/19
frankly [1] 13/13
free [4] 15/25 40/24 41/3 42/3
freedom [2] 8/20 40/21
friction [1] 15/16
friend [1] 20/12
fugitive [1] 41/19
fulsome [1] 19/24
functional [1] 39/18
functions [1] 12/24
furnishes [1] 32/20
further [3] 20/1 20/12 46/7

G
geopolitical [1] 36/4
get [9] 3/25 12/2 12/25 14/24 23/23
36/3 36/19 40/13 43/8
getting [1] 13/4
give [2] 16/20 23/6
given [5] 3/21 26/10 37/17 37/18 37/20
giving [1] 29/14
go [5] 10/22 22/13 36/15 40/24 42/3
goes [1] 13/1
going [11] 5/8 12/14 18/6 21/24 22/17
23/17 23/21 23/22 29/15 40/13 44/25
gone [1] 24/5
good [6] 3/8 3/12 3/13 3/16 4/3 16/22
got [3] 22/6 37/4 37/5
government [60]
government's [6] 4/21 15/2 16/9
37/18 44/3 44/18
grab [1] 24/18

grant [2] 23/8 41/8
granted [3] 5/18 39/8 41/5
granting [1] 33/2
granule [1] 12/25
ground [1] 20/13
grounds [1] 20/11
Guantanamo [2] 15/19 15/19
guess [5] 13/22 24/20 24/21 29/8
29/11

H
habeas [51]
had [30] 3/18 3/20 4/24 4/24 5/2 5/21
6/4 6/15 6/16 7/18 7/19 10/10 13/12
14/25 15/5 15/10 19/15 19/19 20/18
26/6 26/7 26/8 26/8 26/9 28/5 28/21
28/23 33/17 41/19 46/5
Hafetz [17] 1/13 3/9 4/2 4/19 10/4
16/20 21/24 23/16 23/21 23/24 25/18
29/15 34/10 38/8 38/22 44/11 44/15
Hamdi [4] 13/19 13/20 42/19 42/21
hand [4] 8/1 14/15 42/17 43/2
handing [1] 42/4
handover [7] 4/14 4/21 5/13 9/7 14/10
38/13 40/18
hands [1] 27/16
happen [2] 29/2 44/25
happy [2] 3/16 36/23
harboring [1] 41/18
hard [1] 3/22
harm [2] 16/14 36/18
Harvey [1] 34/3
has [36] 5/18 6/22 7/1 7/25 9/8 9/24
10/6 11/9 11/9 12/17 13/18 13/25
15/25 16/4 16/4 19/3 19/4 20/2 20/12
20/16 21/17 21/20 24/10 25/21 27/11
27/25 28/12 28/20 33/7 39/9 39/18
39/24 40/3 40/6 43/1 44/12
hasn't [2] 29/2 35/1
have [78]
haven't [3] 17/15 18/23 24/13
having [1] 9/16
he [25] 4/23 4/24 7/2 7/4 7/8 7/16 8/14
8/18 8/19 10/18 14/19 17/2 17/22
21/25 23/14 23/22 24/1 25/12 25/22
28/14 28/15 33/2 33/5 34/12 43/21
he'll [1] 21/15
he's [24] 4/13 8/15 10/1 14/21 16/25
16/25 17/23 18/6 18/21 22/19 23/8
23/9 23/13 23/22 24/1 24/2 24/11 28/7
35/3 35/6 40/24 40/24 41/5 41/13
heard [4] 12/12 18/23 28/13 34/10
HEARING [1] 1/9
hearings [2] 3/20 9/21
held [23] 6/6 6/16 11/9 12/21 13/15
14/6 15/18 17/23 18/21 19/17 20/19
20/23 22/2 23/14 25/22 27/8 27/9
31/21 34/24 35/3 35/4 35/6 35/10
Henry [1] 3/15
here [47]
hereby [1] 46/4
hereto [1] 46/10
hesitancy [1] 11/1
him [43] 5/22 5/24 7/8 7/18 7/20 8/1
8/12 14/5 17/5 17/11 17/18 18/2 18/3
19/8 23/12 23/18 23/24 24/4 24/12
24/18 24/19 25/8 25/22 28/18 28/19

29/12 30/17 30/24 35/2 35/7 40/11
40/24 42/17 42/18 43/16 43/17 43/18
43/19 43/19 43/20 43/21 43/24 45/2
Hina [2] 1/13 3/9
his [28] 5/23 8/25 11/12 17/1 18/4 19/2
21/25 22/7 24/8 24/9 25/9 28/21 34/1
34/2 35/17 35/18 36/8 37/16 37/17
38/2 38/13 38/13 41/9 42/16 44/2 44/9
44/14 44/14
historical [1] 10/13
history [1] 12/4
hold [3] 6/10 17/4 33/18
holding [6] 17/7 25/2 26/19 35/7 36/11
42/17
holds [2] 13/17 18/15
holidays [1] 3/22
home [1] 10/16
Honor [67]
Honor's [3] 6/2 12/2 42/20
HONORABLE [1] 1/10
hop [1] 4/1
hope [1] 36/23
hoping [1] 37/7
hours [1] 44/19
how [4] 36/22 40/14 41/6 42/6
however [2] 16/16 18/25
hypothetical [3] 5/9 7/7 28/4
hypothetically [5] 7/12 7/15 7/17
25/10 28/4

I
I'd [2] 11/2 37/13
I'll [7] 3/25 4/1 10/4 14/23 40/9 40/9
45/5
I'm [23] 3/9 3/14 5/8 5/19 7/3 12/14
13/3 16/20 21/25 22/8 22/10 24/20
24/21 26/17 28/10 29/8 29/20 33/24
34/12 36/3 37/7 42/24 44/25
I've [3] 3/20 12/23 37/20
idea [1] 23/20
identify [1] 3/6
II [17] 4/18 10/6 20/5 20/7 24/24 27/12
27/12 27/18 31/7 31/8 31/9 32/7 32/7
32/8 32/10 32/11 43/5
illegal [1] 31/13
immediate [2] 15/16 30/12
immediately [1] 41/4
immense [1] 35/20
importance [1] 12/8
important [2] 6/14 12/8
impossibility [1] 31/13
in Munaf [1] 5/3
inclined [1] 38/1
incorrectly [1] 4/13
indefinitely [1] 35/17
individual [3] 9/25 11/8 22/18
individuals [5] 9/14 9/18 10/10 10/14
39/14
information [12] 18/22 20/1 36/10
37/10 37/17 37/21 37/23 37/25 38/3
38/17 38/19 42/10
initiated [1] 9/17
injunction [8] 16/18 17/10 18/12 33/25
35/14 35/14 44/2 44/18
injunction on [1] 35/14
inquiring [1] 39/12
intelligence [1] 37/22

I
intention [2] 44/19 45/1
intentions [1] 28/11
interest [20] 5/3 8/7 17/12 17/18 18/4 18/9 19/5 19/9 20/2 22/7 23/5 28/5 28/25 32/23 36/1 36/6 36/8 38/15 39/17 41/20
interesting [1] 34/11
interfere [2] 11/3 12/18
internally [1] 26/10
international [3] 9/15 13/15 35/25
interns [1] 3/17
interrupted [1] 14/25
intervened [1] 12/12
intrude [1] 10/25
invalidated [1] 12/7
involve [2] 20/14 31/9
involved [5] 4/21 12/13 12/24 20/18 20/20
involves [1] 32/2
involving [1] 36/2
Iraq [21] 4/25 5/3 6/7 6/24 8/20 9/16 9/16 9/17 17/6 17/8 17/24 17/24 23/24 24/2 24/11 30/5 31/3 34/16 40/11 41/19 42/10
Iraqi [6] 4/22 4/25 6/8 30/13 34/1 34/19
Iraqis [4] 8/19 23/12 24/4 33/22
irreparable [1] 16/14
is [185]
ISIL [3] 17/3 17/22 36/1
isn't [2] 6/11 6/18
issue [5] 7/24 27/15 34/18 38/20 40/4
issued [2] 12/7 13/1
issues [1] 12/2
issuing [1] 20/9
it [71]
it's [35] 6/10 9/12 11/18 12/15 13/2 17/21 17/23 18/5 18/6 18/12 19/6 23/7 25/15 27/7 27/8 28/2 28/4 30/7 31/25 32/18 33/4 33/4 34/11 35/9 37/4 37/5 37/12 37/19 37/20 39/2 39/25 40/19 41/2 42/25 43/1
its [19] 4/6 4/18 6/22 7/21 14/7 15/12 16/3 21/22 27/16 27/17 29/20 31/21 33/8 33/16 33/21 33/24 39/18 39/25 44/4
itself [1] 20/7
IV [3] 31/25 32/9 32/12

J
jail [1] 18/15
jailer [1] 6/7
jailhouse [5] 13/17 15/24 25/19 40/21 41/10
JAMES [5] 1/5 1/21 3/4 3/13 16/23
January [1] 1/6
job [1] 7/11
joined [1] 3/9
Jonathan [2] 1/13 3/8
Jones [4] 2/6 46/2 46/13 46/14
JUDGE [2] 1/10 1/11
judicial [2] 26/6 39/15
jurisdiction [25] 4/6 4/10 6/16 6/22 7/21 8/2 8/5 11/5 13/11 13/12 13/18 14/8 16/3 19/3 19/16 21/22 22/23 24/3 25/21 33/16 33/21 34/2 39/24 43/9

43/10
jurisdictional [1] 13/14
just [29] 3/17 5/6 5/13 8/1 8/22 9/11 10/6 12/15 13/7 15/4 20/24 25/5 26/4 26/22 27/14 27/23 28/4 28/10 31/16 32/15 38/9 39/4 40/9 40/23 42/19 42/21 43/7 44/15 44/20
justice [6] 1/21 2/2 3/15 6/9 13/16 41/19
justification [1] 34/7

K
Kathryn [2] 2/2 3/15
keep [1] 39/3
keeping [1] 42/9
Kemba [5] 10/6 10/23 14/25 15/4 15/17
key [1] 18/15
keys [2] 13/17 25/19
kind [3] 9/8 14/16 36/25
kinds [1] 13/3
Kiyemba [23] 4/18 16/2 20/5 20/7 20/17 20/19 24/24 27/12 27/12 27/18 28/24 31/7 31/7 31/9 31/13 31/14 31/17 31/19 32/7 32/7 32/8 32/10 32/10
know [22] 3/20 4/19 4/20 5/8 6/18 6/25 11/19 12/15 12/17 17/25 18/20 26/22 26/23 35/8 36/7 36/8 37/4 38/20 39/5 40/8 43/13 44/12
knowledge [2] 26/13 26/16
knows [1] 17/9

L
Ladin [2] 1/14 3/10
lane [1] 11/2
language [2] 12/8 42/21
large [1] 11/18
last [2] 44/15 45/4
later [1] 25/4
law [13] 1/13 1/14 1/17 4/7 4/25 5/12 5/14 5/18 11/10 11/11 16/12 39/8 43/25
lawful [8] 7/15 7/22 7/25 9/3 9/9 14/17 39/17 43/19
lawfully [1] 33/18
lawless [4] 9/7 14/10 14/13 34/6
laws [2] 26/1 39/22
lawyers [1] 38/2
learning [1] 18/20
least [2] 17/24 28/23
leave [1] 41/3
lectern [1] 3/5
legal [14] 4/8 8/8 14/10 14/19 18/11 33/7 34/7 35/15 39/9 39/16 40/3 40/6 43/2 43/4
legitimate [14] 5/2 5/23 8/7 17/11 17/18 18/3 18/9 19/5 19/9 20/2 22/7 23/5 28/5 32/23
legitimately [1] 18/21
let [12] 3/25 4/19 10/4 11/23 13/7 14/24 15/24 17/13 24/12 36/16 36/19 44/12
let's [2] 7/15 23/12
letting [1] 24/18
level [3] 11/24 12/25 13/4
LIBERTIES [4] 1/3 1/14 1/17 3/4

liberty [4] 38/12 38/13 38/13 42/24
light [2] 16/17 44/3
like [6] 9/4 23/21 32/11 33/3 40/5 42/12
likelihood [1] 16/13
limited [4] 36/13 37/21 39/20 44/1
Lincoln [1] 12/6
literal [2] 24/6 30/16
literally [2] 24/21 34/11
little [3] 14/12 26/4 37/8
location [2] 17/7 17/8
locked [1] 16/4
logistics [1] 41/23
long [2] 13/16 25/14
longer [3] 10/15 11/10 22/19
longtime [1] 10/13
look [2] 42/6 42/12
lose [1] 24/3
lot [1] 36/2
lower [1] 9/14

M
machine [3] 2/11 46/4 46/9
made [14] 8/23 13/20 16/17 17/15 21/17 21/20 21/20 25/1 27/25 28/12 33/14 33/17 34/12 44/16
MAHONEY [1] 1/21
main [1] 15/4
maintain [1] 16/3
make [13] 3/18 7/10 13/2 19/2 21/25 24/21 24/21 31/23 32/4 32/10 34/10 37/16 43/7
makes [1] 32/8
making [3] 5/22 28/24 33/18
man [1] 30/17
Massachusetts [1] 2/3
matter [11] 3/20 3/23 12/5 13/14 20/15 20/24 26/17 30/10 31/20 36/9 38/16
matters [1] 11/7
MATTIS [2] 1/5 3/4
may [5] 7/3 27/15 28/5 36/9 39/14
maybe [3] 22/13 37/13 40/13
me [15] 4/19 11/23 13/7 16/20 17/13 18/4 22/22 24/16 32/14 33/19 33/22 35/12 36/16 36/19 44/12
mean [12] 5/25 7/10 13/1 17/19 24/7 24/17 26/23 28/10 30/19 35/14 40/8 41/9
meaningless [1] 19/2
means [4] 27/13 30/16 32/16 39/13
meant [3] 15/16 28/10 30/12
mechanics [2] 24/14 41/23
mechanism [1] 29/9
meet [1] 19/9
mere [1] 39/17
merely [2] 9/6 44/1
merited [1] 24/9
meritless [1] 32/9
merits [2] 8/13 12/11
micromanagement [2] 14/3 14/9
might [6] 9/13 14/4 40/5 41/10 41/10 42/12
military [16] 10/25 11/7 11/12 11/13 11/14 12/4 12/5 12/11 12/17 12/21 13/6 15/19 17/7 21/6 35/10 37/22
Milligan [1] 12/4
mind [1] 44/20

M

minute [3] 10/23 12/19 18/14
 missed [1] 16/9
 misspoke [1] 28/6
 MNF [1] 9/15
 MNF-1 [1] 9/15
 moment [1] 16/20
 months [1] 16/4
 moot [2] 23/2 43/12
 mooting [1] 29/6
 more [14] 6/14 10/6 13/13 15/3 19/21
 19/24 27/13 36/19 37/4 37/8 37/9
 37/15 41/1 43/6
 morning [7] 3/2 3/8 3/12 3/13 3/16 4/3
 16/22
 most [2] 12/3 12/7
 motion [5] 4/4 4/4 44/10 44/13 44/18
 MOTIONS [1] 1/9
 move [3] 11/15 11/15 28/18
 moved [1] 14/25
 moving [2] 22/5 36/20
 Mr [21] 4/2 4/19 10/4 16/20 21/24
 23/16 23/21 23/24 25/6 25/18 26/11
 29/15 30/6 34/10 38/8 38/18 40/14
 40/22 44/11 44/11 44/15
 Mr. [1] 38/22
 Mr. Hafetz [1] 38/22
 much [3] 15/3 27/13 28/23
 multinational [3] 4/23 34/18 34/21
 multiple [1] 9/21
 Munaf [71]
 my [18] 3/9 7/11 11/2 16/23 19/14
 19/24 20/12 26/13 26/16 29/18 30/25
 37/7 37/13 39/1 44/17 44/20 46/9
 46/10

N

N.W [1] 2/8
 name [3] 16/23 18/20 46/11
 narrow [1] 6/10
 nation [4] 17/24 25/11 25/12 29/12
 national [5] 3/10 11/1 17/1 35/21
 37/22
 nationals [2] 25/1 31/22
 nations [1] 36/2
 naturally [1] 31/10
 need [5] 5/11 22/13 34/15 34/21 34/23
 needing [1] 14/17
 needs [1] 8/23
 new [3] 1/16 3/16 3/17
 next [1] 44/19
 night [1] 41/14
 no [40] 1/4 4/8 4/8 5/6 8/8 9/24 10/10
 10/11 10/15 11/10 15/5 15/18 15/20
 15/25 18/10 18/11 18/22 19/6 19/14
 21/12 22/10 22/19 22/20 23/14 23/20
 26/6 26/23 27/25 28/12 30/25 34/14
 34/21 39/6 42/2 42/22 43/13 43/20
 44/5 44/5 44/24
 Nobody [1] 34/16
 noncitizen [1] 31/12
 noncitizens [2] 10/11 20/20
 none [4] 7/12 27/5 39/11 39/13
 not [102]
 noted [1] 44/1
 notes [1] 46/9
 nothing [5] 14/18 16/2 18/4 30/14 40/4

noticed [1] 16/8
 notion [1] 12/16
 now [5] 5/7 6/10 16/4 20/12 45/1
 nowhere [1] 21/9
 nuggets [2] 30/7 30/9
 Number [1] 3/3
 NW [3] 1/18 1/22 2/3
 NY [1] 1/16

O

obligation [1] 44/5
 obviously [3] 11/5 12/22 37/16
 offenses [1] 6/18
 offered [1] 26/5
 office [1] 3/10
 official [4] 2/7 46/2 46/8 46/14
 Oh [4] 22/24 28/9 35/24 36/5
 okay [4] 7/17 18/14 37/3 41/2
 Omar [6] 9/19 33/13 33/17 34/3 39/10
 43/5
 Omar 2 [1] 39/10
 Omar versus [1] 34/3
 one [14] 6/11 9/19 12/3 16/20 18/22
 21/14 28/12 33/12 34/24 36/20 37/12
 39/1 42/13 43/7
 ongoing [2] 26/14 27/2
 only [6] 8/21 9/21 11/21 15/22 21/19
 26/10
 open [5] 15/24 24/10 28/18 30/16
 40/23
 opened [1] 23/14
 opening [3] 24/17 40/21 41/9
 operate [1] 43/24
 opinion [7] 21/9 24/24 27/18 27/19
 29/20 31/21 33/24
 opportunity [2] 3/18 28/21
 oppose [1] 38/10
 opposing [4] 7/13 7/14 36/11 36/12
 opposition [1] 32/5
 order [8] 28/20 34/1 41/9 42/12 42/13
 42/20 44/7 44/13
 ordered [5] 3/21 18/18 24/8 24/9
 24/14
 other [19] 5/12 10/7 12/23 14/6 16/14
 17/19 20/1 21/15 21/19 25/18 28/15
 29/4 34/7 36/6 36/12 36/18 41/1 41/24
 43/22
 otherwise [1] 40/8
 our [10] 16/15 18/6 22/19 28/11 35/24
 36/18 39/5 44/8 44/25 45/1
 out [4] 8/18 23/24 24/12 43/8
 outside [2] 23/13 43/25
 over [17] 7/2 7/4 8/1 14/15 16/4 17/5
 19/3 22/22 25/7 25/22 32/19 33/16
 33/22 39/24 42/4 42/18 43/2
 overseas [1] 11/9
 own [2] 21/25 33/16

P

p.m [1] 45/9
 page [7] 27/17 27/22 32/14 32/18
 32/19 34/4 39/11
 pages [1] 46/7
 papers [2] 7/2 44/9
 parallel [1] 15/7
 paraphrasing [1] 42/24
 parte [4] 12/4 12/10 36/24 38/10

parties [2] 3/5 3/25
 parts [1] 6/3
 party [2] 3/6 11/13
 pause [1] 44/23
 pendency [4] 23/1 28/16 35/17 35/18
 pending [4] 23/2 41/14 44/14 44/17
 Pennsylvania [1] 1/22
 people [2] 13/4 40/9
 period [1] 36/13
 permit [1] 36/16
 permitted [1] 6/13
 person [7] 7/16 7/23 9/4 14/4 24/18
 36/1 39/21
 petition [22] 9/1 11/6 19/2 22/3 22/5
 22/22 23/1 23/2 23/3 24/8 28/16 28/21
 29/5 33/16 34/3 35/17 35/18 40/25
 41/9 43/12 44/2 44/14
 petitioner [46] 3/9 4/9 4/12 4/22 4/24
 5/2 5/5 6/23 7/16 13/14 16/24 17/4
 17/7 17/9 17/17 18/19 19/1 20/11
 21/14 23/8 23/10 23/25 25/11 26/11
 26/19 27/5 28/6 28/13 28/13 29/2
 29/13 29/14 30/20 32/11 33/1 33/8
 33/17 33/17 33/25 34/9 34/24 35/21
 37/1 39/21 43/15 44/6
 petitioner's [8] 4/11 18/7 18/13 18/15
 32/5 32/8 37/11 40/20
 petitioners [7] 9/20 10/2 13/14 19/15
 26/5 27/1 28/23
 petitions [1] 9/22
 physically [1] 30/24
 picked [2] 8/19 41/3
 picking [2] 30/7 30/8
 place [2] 26/15 27/3
 Plaintiff [1] 1/4
 Plaintiffs [1] 1/13
 plays [1] 25/17
 pleadings [1] 3/24
 please [2] 3/5 44/22
 point [13] 4/2 5/16 7/21 9/5 9/6 9/11
 12/1 24/22 25/2 33/14 38/22 40/4
 41/10
 pointed [2] 8/18 43/8
 points [3] 13/8 15/4 43/7
 policies [1] 26/1
 posed [1] 9/16
 position [14] 4/18 5/25 19/7 19/25
 22/25 24/10 29/11 29/18 29/19 30/21
 30/25 37/18 39/5 45/1
 positive [3] 39/16 40/3 43/4
 positively [2] 4/7 5/18
 possibility [1] 10/11
 possible [6] 15/18 15/20 15/22 41/2
 41/16 41/17
 practice [2] 10/14 10/15
 precluded [3] 21/10 21/13 35/16
 Precludes [1] 20/9
 prefer [1] 38/1
 prejudice [5] 35/12 35/18 35/21 35/23
 35/24
 prejudiced [1] 36/14
 preliminary [4] 16/18 17/9 18/12 44/18
 prepare [1] 3/23
 present [4] 27/1 27/6 27/6 27/8
 preservation [1] 8/25
 preserve [5] 4/10 21/22 33/15 33/21
 34/2

P
pretending [1] 43/10
pretty [1] 36/1
prevent [3] 17/17 20/10 29/6
prevented [1] 18/19
preventing [1] 32/22
principally [2] 4/16 10/8
principle [2] 4/5 6/21
prior [1] 34/9
prisoners [3] 11/15 11/15 14/6
probably [1] 45/5
proceeding [4] 25/13 26/15 27/3 33/6
proceedings [12] 2/11 7/19 8/20 9/18
9/20 9/24 26/6 41/15 42/16 45/8 46/5
46/8
process [3] 14/1 26/10 38/16
produced [1] 2/12
proffer [3] 5/1 18/8 18/11
proffered [1] 5/20
prohibit [3] 5/4 44/7 44/9
prohibited [1] 44/16
prohibiting [3] 27/4 34/1 44/13
promptly [1] 12/12
properly [1] 8/14
proposed [2] 14/5 21/2
proposing [1] 22/1
prosecute [6] 5/24 7/20 19/19 27/22
34/20 42/10
prosecuted [1] 19/18
prosecuting [2] 15/11 41/20
prosecution [4] 6/17 15/16 30/13
39/23
prospective [1] 29/16
provide [7] 20/1 25/3 31/11 31/14
36/23 37/8 38/1
provided [3] 4/8 37/11 38/2
provides [3] 25/3 25/5 31/1
providing [2] 29/10 29/13
purpose [1] 33/6
purposes [1] 11/12
put [3] 7/1 25/18 33/3

Q
question [13] 6/2 8/13 8/13 11/11
11/18 11/23 12/3 13/10 14/3 19/14
19/25 25/21 42/13
questioned [2] 11/10 11/11
questions [7] 3/25 5/9 10/6 14/23 15/1
16/7 43/6
Quirin [1] 12/10
quite [1] 33/3
quo [2] 8/25 36/12
quote [12] 6/7 15/5 20/8 21/1 23/24
27/14 27/14 27/19 29/21 32/19 39/11
42/25
quoting [4] 29/20 33/24 34/12 39/7

R
raise [1] 12/1
raised [1] 40/4
rather [4] 11/2 11/2 33/21 36/21
reach [1] 4/1
read [8] 6/13 20/5 20/24 21/8 21/8
27/11 28/13 43/4
reading [3] 24/6 30/8 30/16
ready [1] 45/3
realities [1] 36/4

really [1] 41/13
reason [2] 11/13 28/15
reasons [1] 37/23
reassure [1] 36/25
recall [1] 32/9
receiving [3] 5/3 8/7 39/13
recent [1] 12/11
recessed [1] 24/2
recipient [1] 27/21
recognize [1] 11/18
recognized [2] 10/23 39/20
recognizes [1] 39/19
record [17] 3/6 5/7 6/25 7/13 14/18
14/22 17/16 17/18 17/20 17/21 17/23
18/1 19/15 19/21 19/23 37/19 40/10
recorded [1] 2/11
redact [2] 38/18 38/19
refer [1] 9/19
referring [1] 39/10
regard [2] 38/23 44/15
regarded [1] 10/15
regards [1] 13/9
reinforces [1] 16/16
reiterate [2] 42/21 44/4
reiterated [1] 43/5
rejected [2] 13/24 21/23
relations [2] 35/25 36/18
relatively [1] 3/21
release [68]
released [15] 6/17 10/19 15/6 16/5
19/17 20/20 23/18 24/1 25/5 31/12
33/5 34/19 34/20 40/16 42/3
releases [1] 23/10
releasing [1] 42/4
relief [27] 4/4 8/21 16/17 23/8 23/9
23/17 23/22 25/8 25/13 29/10 29/13
29/15 29/17 30/1 30/4 31/11 31/15
31/16 33/2 33/10 33/19 40/16 40/25
41/5 41/15 44/1 44/8
relies [2] 4/16 10/7
relinquish [1] 45/2
relinquished [1] 25/10
relinquishes [1] 22/17
relinquishing [2] 17/10 33/9
relinquishment [6] 21/5 24/23 25/14
31/2 31/3 40/20
reluctant [4] 10/24 11/20 12/18 12/25
rely [2] 8/11 32/1
remedy [17] 8/16 10/3 10/12 15/8 15/9
15/22 15/23 16/1 22/11 27/9 27/10
29/21 29/22 32/19 42/8 42/12 43/15
remember [2] 8/10 42/7
reminder [1] 11/21
render [1] 38/20
rendition [1] 38/14
repatriation [1] 10/20
reported [1] 46/4
Reporter [4] 2/6 2/7 46/2 46/14
represent [1] 3/7
representations [1] 44/4
represented [1] 41/12
request [12] 5/23 7/20 9/5 34/7 34/9
34/15 34/22 35/2 44/7 44/15 44/16
45/4
requested [2] 16/17 44/12
require [1] 38/2
required [3] 19/23 34/8 41/11

requirement [1] 18/11
requires [1] 41/1
requiring [1] 32/21
resolution [1] 44/14
respect [3] 6/4 21/1 28/22
respectfully [4] 11/24 18/5 19/11 44/6
respond [3] 13/7 16/8 40/14
respondent [5] 3/14 4/16 10/2 16/24
44/7
respondents [2] 4/8 4/12
response [5] 15/1 34/5 41/24 41/25
42/19
rested [1] 6/21
restriction [3] 7/14 9/6 44/5
result [2] 10/20 35/13
resulting [1] 40/20
retain [2] 14/7 25/4
return [1] 10/18
reveal [1] 37/23
reversed [1] 33/25
review [8] 9/10 14/17 23/6 23/8 29/7
29/9 33/23 39/15
reviewed [1] 3/24
reviewing [1] 13/23
right [23] 3/19 7/17 10/10 10/17 13/25
15/6 15/15 15/17 15/20 16/4 16/6
16/19 17/13 18/8 18/14 23/14 31/1
33/19 34/23 38/16 38/25 43/21 45/1
rights [7] 11/25 12/9 12/16 14/2 21/1
37/24 43/22
Roberts [1] 13/16
role [3] 13/2 42/20 42/23
Room [1] 2/7
RPR [2] 2/6 46/14
rule [4] 5/15 28/21 39/20 45/5
ruled [1] 9/1
ruling [4] 19/22 25/4 29/5 44/17
run [4] 22/4 23/3 29/7 43/9

S
safe [1] 10/16
said [25] 6/7 10/1 10/8 13/16 15/21
20/14 21/3 21/12 23/23 24/24 26/21
28/3 30/4 30/15 31/20 32/7 33/23
33/24 35/9 40/11 41/11 41/18 42/2
42/9 46/8
same [10] 13/19 15/17 21/1 21/20 33/4
33/5 33/14 33/17 34/12 43/11
satisfying [1] 37/8
Saudi [6] 16/25 23/18 25/7 25/11 28/2
31/3
Saudis [1] 24/4
saw [1] 4/20
say [18] 7/16 7/17 9/4 13/9 15/3 17/24
19/8 21/7 21/10 22/17 23/12 23/17
23/21 23/22 24/8 28/10 32/15 41/2
saying [12] 13/12 13/25 19/4 22/6 22/8
22/10 23/5 24/7 24/17 25/6 28/15
32/25
says [9] 5/16 5/17 6/10 18/1 20/8 31/5
31/8 31/15 39/11
schedule [1] 3/21
seal [4] 36/24 37/11 38/2 38/11
second [3] 12/15 13/22 44/21
security [3] 11/1 37/22 39/2
see [3] 21/24 32/24 38/16
seek [6] 11/12 17/17 23/17 27/20

S

seek... [2] 31/14 35/2
seeking [21] 4/10 4/12 4/13 7/8 9/6
 9/22 10/1 10/3 14/14 15/13 17/9 18/2
 18/3 18/25 23/8 23/9 25/13 34/16 41/7
 41/13 44/1
seeks [7] 23/22 25/8 28/1 28/17 28/19
 33/2 43/15
seems [1] 24/16
seen [1] 17/16
sense [6] 15/7 30/18 32/15 39/25 40/1
 40/2
serious [1] 36/18
serve [1] 19/2
session [1] 12/13
set [1] 19/10
several [1] 3/20
Shamsi [2] 1/13 3/10
share [1] 11/1
sharpen [1] 9/11
sheltered [1] 15/14
shield [1] 27/15
shorthand [3] 2/11 46/5 46/9
shortly [1] 45/5
should [13] 10/18 11/3 11/14 11/21
 13/22 19/9 21/21 28/14 29/4 33/15
 33/20 34/18 34/19
shouldn't [3] 28/15 34/8 37/10
show [2] 14/17 19/23
showing [1] 16/17
shown [1] 16/13
simply [13] 6/17 8/1 8/9 9/25 16/1
 22/5 23/2 23/3 24/10 24/17 28/15 29/6
 41/2
single [2] 22/4 31/5
situation [4] 7/18 8/10 9/23 40/12
Slow [2] 14/12 18/14
smuggle [1] 23/24
so [52]
soil [2] 27/16 41/21
some [17] 3/24 5/9 5/13 5/14 8/2 9/8
 11/12 12/7 13/9 13/19 14/23 15/1
 26/10 33/12 34/7 38/14 43/3
somehow [3] 19/4 29/7 29/15
someone [2] 41/18 42/2
something [4] 9/4 21/22 29/2 37/8
soon [2] 24/2 45/3
sorry [4] 7/14 10/1 16/21 21/25
sort [2] 14/9 36/17
sought [4] 4/4 5/22 19/18 33/25
sounds [1] 23/21
sovereign [14] 4/14 6/10 6/22 8/5 9/7
 15/9 15/11 23/12 27/16 29/12 32/23
 41/19 45/3 45/3
sparse [4] 14/23 37/19 37/19 37/20
speak [1] 44/20
speaking [2] 5/10 28/4
specific [4] 17/8 36/19 37/5 37/9
Spitzer [2] 1/17 3/11
stake [1] 42/24
stand [3] 23/17 29/16 43/13
stands [1] 21/25
start [1] 11/14
starting [2] 3/17 5/16
state [3] 14/1 20/2 38/9
statement [4] 17/15 17/19 17/20 18/3
STATES [66]

stating [1] 7/4
stationed [1] 17/6
status [2] 8/25 36/11
statute [3] 5/15 8/3 43/3
stay [1] 28/20
staying [1] 28/20
steps [1] 36/17
stick [1] 40/9
still [6] 18/8 25/16 25/17 25/19 25/21
 25/22
stop [2] 17/13 36/3
strategic [2] 11/13 11/13
Street [1] 1/15
strongly [2] 16/15 23/16
subject [2] 39/23 39/23
subjected [3] 20/11 21/16 26/6
submitted [1] 7/20
subscribed [1] 46/10
success [1] 16/13
such [2] 5/7 29/22
suffer [3] 35/13 35/19 35/20
suffice [1] 19/9
suggests [3] 14/18 16/2 28/10
suit [1] 30/9
Suite [1] 1/19
support [4] 4/18 17/16 17/20 31/14
supported [1] 4/4
supposed [1] 41/6
Supreme [19] 4/17 6/7 9/12 10/23
 11/21 12/6 12/7 12/12 12/17 13/11
 13/24 14/11 21/22 27/8 27/9 29/19
 30/4 34/13 35/4
sure [4] 3/18 7/3 15/3 26/17
surrender [3] 5/17 25/25 39/7
suspect [1] 29/15
suspension [2] 42/22 42/22
Syria [4] 17/2 17/22 35/22 40/11
Syrian [6] 7/3 17/3 17/5 24/4 31/4
 35/22
system [1] 6/9

T

take [5] 8/1 24/4 24/19 29/16 30/17
takes [1] 30/17
taking [4] 17/12 26/15 27/3 30/15
talk [3] 33/11 37/13 37/13
talked [4] 33/12 33/14 42/7 42/19
talking [6] 12/16 14/9 25/24 26/2
 37/24 38/12
TANYA [1] 1/10
tell [3] 18/6 22/6 40/24
telling [2] 11/14 28/11
tells [1] 18/4
temporary [3] 35/14 35/14 36/11
ten [1] 13/13
tend [1] 4/1
term [1] 35/15
terminate [2] 14/15 42/16
terms [1] 32/13
territory [6] 15/10 15/12 17/3 17/22
 39/15 39/25
Terry [1] 3/14
testimony [1] 46/5
than [11] 8/17 17/19 19/21 19/24 20/1
 28/23 33/21 36/6 37/5 40/12 41/24
Thank [10] 3/19 16/20 16/22 38/6 38/7
 40/17 44/11 45/4 45/6 45/7

that [228]
that's [40] 6/20 6/20 8/24 10/3 11/2
 18/21 20/4 21/11 22/8 23/11 24/6
 24/16 24/22 24/23 25/1 25/23 27/11
 27/17 27/22 27/24 29/13 29/18 29/19
 30/21 31/1 31/3 32/25 34/3 35/15
 38/10 39/3 40/5 40/12 42/6 42/18
 42/25 43/1 43/3 43/14 44/25
the equities [1] 16/15
their [14] 7/2 8/11 10/16 16/9 19/5
 20/17 21/2 26/9 27/20 28/22 28/25
 29/5 41/20 44/12
them [8] 13/5 19/19 27/22 30/5 30/8
 34/17 34/20 41/20
then [8] 9/21 9/21 13/19 19/7 24/2
 24/9 25/6 29/14
there [34] 5/12 6/2 6/5 7/22 7/23 7/25
 8/6 9/10 9/19 9/24 10/11 10/14 14/25
 15/20 17/13 17/18 17/19 19/22 25/20
 26/9 26/14 27/2 34/14 34/21 35/1
 36/17 37/22 39/6 39/9 39/23 40/3 40/6
 41/15 43/1
There'd [1] 9/21
there's [16] 6/24 14/18 14/18 15/7
 15/18 15/25 16/1 18/10 22/3 22/20
 22/21 27/24 34/23 42/22 43/13 43/20
therefore [1] 33/19
Thereupon [1] 45/8
these [7] 10/9 11/20 12/1 15/4 20/25
 27/5 42/16
they [49]
they're [7] 7/7 12/21 18/3 28/15 34/20
 37/16 37/17
they've [2] 14/6 22/6
thing [3] 30/11 33/4 33/5
think [33] 3/25 6/2 8/23 12/8 12/22
 14/25 20/5 21/19 24/7 24/14 24/24
 25/1 25/15 25/18 25/19 25/25 26/2
 27/4 27/11 27/12 27/23 28/22 33/4
 33/8 36/17 36/19 37/6 38/15 38/21
 41/1 42/2 42/5 44/24
thinking [1] 37/1
third [1] 10/16
this [69]
those [14] 5/24 6/18 9/18 11/3 12/11
 13/2 13/19 15/8 15/11 21/17 26/25
 30/9 31/11 43/23
though [3] 6/23 17/8 27/5
thought [1] 24/13
threat [1] 9/16
three [2] 42/23 42/25
Thursday [1] 1/6
thus [1] 10/11
tight [1] 3/21
time [1] 36/13
times [1] 13/13
today [8] 3/17 8/24 8/25 17/1 33/14
 38/3 42/16 44/4
tomorrow [2] 15/24 36/23
took [1] 23/12
torture [2] 20/12 21/16
tortured [2] 28/14 29/1
total [1] 25/15
traditional [2] 13/2 30/18
traditionally [3] 10/24 11/7 12/24
transcribed [1] 46/9
transcript [3] 1/9 2/11 46/8

T
transcription [1] 2/12
transfer [68]
transferred [2] 28/14 28/16
transferring [9] 8/5 19/8 23/3 29/12 33/1 34/9 35/16 40/15 44/17
transport [1] 30/24
travel [1] 17/2
traveled [1] 6/5
travels [1] 39/21
treaty [3] 5/15 8/3 43/3
trial [3] 12/5 12/14 43/22
truly [1] 11/19
trying [4] 3/22 24/20 24/21 36/3
turn [3] 17/5 25/7 33/22
turned [2] 7/2 7/4
two [11] 3/17 6/3 6/4 6/15 12/12 21/13 21/15 33/13 35/21 36/17 43/7
type [1] 14/9
typical [2] 25/20 29/22
Typically [1] 43/2

U
U.S [41] 1/21 2/2 2/7 7/2 7/4 11/14 12/21 12/21 14/4 14/6 15/21 17/4 20/14 21/2 21/6 22/12 22/14 23/9 24/2 24/22 24/25 25/5 25/9 25/13 25/25 26/6 26/8 26/8 29/24 30/1 30/3 30/18 31/22 32/2 32/11 33/5 35/7 39/7 39/15 41/13 42/15
ultimate [1] 44/8
ultimately [2] 17/2 42/13
unanimous [1] 13/12
unanimously [1] 21/23
unauthorized [1] 9/7
under [17] 4/25 5/5 14/4 14/8 16/11 19/10 19/11 22/19 27/17 36/24 37/11 38/1 38/11 39/6 40/25 43/21 44/5
understand [8] 5/19 20/7 20/22 28/17 31/19 37/6 37/21 42/5
understands [1] 39/5
understood [1] 40/1
underway [1] 9/20
UNION [4] 1/3 1/15 1/17 3/4
UNITED [66]
unlawful [3] 10/19 27/10 29/21
unless [4] 4/7 10/5 16/9 39/8
unnamed [1] 19/1
unrestricted [1] 14/14
unspecified [1] 38/14
until [6] 8/25 18/18 28/20 44/1 44/2 44/9
up [6] 8/19 16/4 21/25 23/17 29/16 41/3
upheld [1] 12/11
upon [1] 27/21
us [2] 24/14 39/3
use [1] 35/15
used [1] 11/7

V
vague [1] 38/14
Valentine [4] 5/16 14/11 39/6 40/1
valid [1] 34/6
value [1] 36/8
various [1] 43/22
vehicle [1] 25/3

versus [2] 3/4 34/3
very [10] 5/25 12/25 13/3 13/24 17/24 23/16 24/6 30/15 32/12 35/11
violating [1] 39/22
visas [1] 13/1
voluntarily [2] 15/10 39/21
voluntary [1] 17/1

W
Wait [3] 18/14 22/13 26/21
walk [1] 24/12
want [8] 10/5 10/6 10/22 12/15 29/5 35/15 40/17 42/17
wanted [2] 3/18 42/10
wanting [1] 37/23
wants [2] 38/11 43/12
war [2] 14/1 36/1
wartime [5] 8/12 10/9 13/23 15/5 15/21
was [70]
Washington [5] 1/5 1/19 1/23 2/4 2/8
wasn't [4] 15/9 18/23 18/23 19/22
way [4] 19/22 23/6 43/11 43/14
we [36] 3/2 4/9 7/19 11/21 13/9 15/25 16/11 17/25 17/25 18/10 18/20 22/6 22/13 23/14 25/10 25/18 29/9 32/1 32/6 32/6 32/7 32/9 35/20 37/7 37/13 37/23 38/4 38/10 38/15 38/24 38/24 42/15 42/19 43/13 44/6 45/1
We'll [1] 38/4
we're [17] 8/21 9/6 12/16 14/9 19/8 21/11 25/16 25/24 25/24 36/25 37/8 38/11 40/3 41/7 42/3 42/4 44/1
we've [8] 3/20 16/12 16/13 16/17 33/12 33/14 40/4 44/8
weaker [1] 28/23
weigh [2] 11/20 16/15
welcome [1] 37/2
well [11] 5/6 5/11 10/5 10/23 11/4 11/10 16/13 17/21 23/20 37/12 43/17
were [38] 4/20 5/1 5/12 6/6 6/10 6/16 9/3 9/14 9/17 9/20 9/22 10/2 10/11 10/14 10/14 13/15 13/20 15/4 15/13 15/18 19/17 19/17 20/19 25/7 26/25 27/1 27/1 27/7 28/24 30/3 34/16 34/17 36/14 40/13 41/8 41/14 42/13 43/20
what [62]
what's [4] 22/21 34/5 35/23 40/10
whatever [2] 37/25 39/4
whatsoever [1] 26/7
when [14] 4/1 10/14 10/18 11/25 12/16 14/2 14/25 18/12 21/25 22/17 27/23 35/9 36/18 42/24
where [19] 5/16 7/19 9/23 11/8 11/14 11/15 12/24 13/1 13/4 14/6 14/19 14/21 17/2 18/21 22/2 23/13 25/1 32/25 39/20
whereof [1] 46/10
whether [9] 7/22 8/14 24/3 25/21 29/16 31/2 33/6 34/18 34/19
which [49]
while [1] 12/10
who [13] 4/22 6/4 10/14 13/1 13/5 15/5 15/25 16/3 17/1 20/18 20/20 24/18 37/24
whoever [1] 30/17
whose [1] 15/9

why [17] 11/3 11/14 16/13 16/13 20/4 21/11 24/24 26/17 27/4 27/11 28/24 29/4 29/4 34/7 35/1 36/13 37/10
will [8] 3/4 21/14 21/25 23/25 27/21 38/24 39/15 45/4
Winter [2] 16/12 16/18
wish [1] 5/2
within [4] 6/22 7/21 44/19 45/5
without [6] 7/14 7/15 14/10 14/16 14/17 39/15
witness [1] 46/10
words [5] 5/12 25/18 29/4 36/12 41/1
work [2] 3/22 41/6
workings [1] 11/3
would [76]
wouldn't [4] 5/25 18/24 23/5 33/3
writ [1] 20/10
Writs [4] 15/2 16/9 16/15 33/11
wrong [2] 30/21 31/1
Wyer [2] 2/2 3/15

Y
Yeah [1] 14/22
Year [1] 3/16
yes [11] 17/14 17/25 18/17 28/9 29/14 29/25 30/22 31/7 33/4 37/25 41/12
York [1] 1/16
you [82]
you'd [1] 30/23
you're [16] 8/24 8/24 18/25 22/1 22/14 24/7 25/6 29/12 29/14 30/7 32/25 35/10 38/1 41/3 42/3 42/3
your [93]
yourselves [1] 3/6