

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CHARLES SWIFT, as next friend for
SALIM AHMED HAMDAN,

Petitioner,

V.

DONALD H. RUMSFELD, *et al.*,

Respondents.

CA No. 1:04-cv-01519-JR
Judge James Robertson

**UNOPPOSED MOTION OF WASHINGTON LEGAL FOUNDATION
AND ALLIED EDUCATIONAL FOUNDATION
FOR LEAVE TO FILE BRIEF
AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS'
CROSS-MOTION TO DISMISS**

The Washington Legal Foundation and the Allied Educational Foundation hereby move for leave to file the attached brief as *amici curiae* in support of Respondents' Cross-Motion to Dismiss. In support of this motion, the potential *amici* state as follows:

1. The Washington Legal Foundation (WLF) is a nonprofit public interest law and policy center with supporters in all 50 states. While WLF engages in litigation in a wide variety of areas, WLF devotes a substantial portion of its resources to promoting America's security. To that end, WLF has appeared before this Court and other federal courts to ensure that the federal government possesses the tools necessary to protect this country from those who would seek to destroy it and/or harm its citizens. *See, e.g., Rumsfeld v. Padilla*, 124 S. Ct. 2711 (2004); *Hamdi v. Rumsfeld*, 124 S. Ct. 2633 (2004); *Rasul v. Bush*, 124 S. Ct. 2686 (2004).

2. The Allied Educational Foundation (AEF) is a non-profit charitable and educational foundation based in Englewood, New Jersey. Founded in 1964, AEF is dedicated to promoting education in diverse areas of study, such as law and public policy, and has appeared as *amicus curiae* in the federal courts on national security-related issues on a number of occasions.

3. *Amici* believe that military commissions are an effective and constitutional means of bringing to justice enemy belligerents who violate the law of war, and that there are at least some instances in which the federal courts' criminal justice system is not up to the task. *Amici* also believe that, in the interests of comity and efficient administration of the courts, any challenge to the military commission system established by President Bush should be deferred until after the system has been allowed to operate.

4. Respondents filed their cross-motion to dismiss on Friday, August 6, 2004. *Amici* have been prepared to file their proposed brief at all times thereafter. However, before *amici* could file, the U.S. District Court for the Western District of Washington issued an order on August 9 transferring the case to this Court. Thereafter, *amici* delayed their filing until the case could be docketed in this Court and assigned to a judge. Because no deadline has been established for the filing of Petitioner's response to the cross-motion to dismiss, Petitioner will have more than sufficient time to review *amici*'s proposed brief and include within his response any response he wishes to make to the proposed *amicus* brief.

5. Counsel for *amici* contacted counsel for Petitioner and Respondents regarding this motion. Counsel for all parties stated that they have no objection to the motion. *Amici* also note that while the case was pending in Seattle, the district judge granted leave for the filing of

an *amicus* brief in opposition to Respondents' July 16, 2004 motion to dismiss or transfer.

6. *Amici* have no direct interest in the outcome of this case and thus bring to the case a perspective that is distinct from that of any of the parties. Accordingly, *amici* believe that their brief may be of significant assistance to the Court in resolving the legal issues raised by the petition and the pending cross-motion to dismiss.

WHEREFORE, the Washington Legal Foundation and the Allied Educational Foundation respectfully request that the Court grant their motion for leave to file. A proposed order is attached.

Respectfully submitted,

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Dated: September 3, 2004

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ORDER

The Washington Legal Foundation and the Allied Educational Foundation having filed a motion for leave to file an *amicus curiae* brief in this case in support of Respondents' Cross-Motion to Dismiss; and the Court having considered the premises; NOW, THEREFORE, it is ORDERED that the motion for leave to file be, and the same hereby is GRANTED.

Honorable James Robertson
United States District Judge

Date: September __, 2004

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of September, 2004, copies of the foregoing Brief of Washington Legal Foundation, *et al.*, as well as their motion for leave to file the brief, were deposited in the U.S. Mail, first-class postage prepaid, addressed to the following:

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