



U.S. Department of Justice

Office of the Solicitor General

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Principal Deputy Solicitor General

Washington, D.C. 20530

May 22, 2008

Ms. Patricia S. Connor  
Clerk  
United States Court of Appeals  
for the Fourth Circuit  
1100 East Main Street, Suite 501  
Richmond, Virginia 232219-3517

Re: Al-Marri v. Pucciarelli, No. 06-7427

Dear Ms. Connor:

This letter responds to appellant's latest filing under Federal Rule of Appellate Procedure 28(j), dated May 13, 2008, referring not to any "supplemental authorities," Fed. R. App. Proc. 28(j), but to recent filings in a separate action involving different claims and issues.

Appellant argues that those filings demonstrate that his detention as an enemy combatant is "illegal because it was for the illegitimate purpose of interrogation." That is incorrect. Applying the framework set out in Hamdi v. Rumsfeld, 542 U.S. 507 (2004) (plurality), the district court required the government to explain the reasons that appellant was designated as an enemy combatant. The government did so by presenting the President's designation and a supporting affidavit. See J.A. 213-227. Appellant had an opportunity to contest that designation under the Hamdi framework -- and to attempt to rebut the government's statement of the reasons for his detention -- but, as the district court found, he declined to do so. J.A. 354-355.\* Appellant has provided no reason to reopen the district court record and attempt to redo the Hamdi proceeding in this Court.

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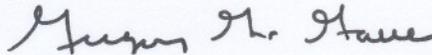
\* Appellant (and his counsel) knew that he was interrogated when he had an opportunity to respond to the government's showing under the Hamdi framework and, indeed, appellant made the same argument in his habeas petition that he makes in his Rule 28(j) letter. J.A. 24.

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In his most recent Rule 28(j) letter, appellant also makes various allegations about the conditions of his confinement. Those allegations are not relevant to the issues in this habeas action (particularly insofar as they concern alleged conditions, including interrogation, in the past), but they are the subject of appellant's separate conditions-of-confinement action, which is currently before the district court. See Al-Marri v. Gates, No. 2:05-cv-2259 (D.S.C.). That action, not this appeal, provides the appropriate vehicle for considering such allegations.

Thank you for your kind attention to this matter.

Respectfully submitted,



Gregory G. Garre

cc: Jonathan Hafetz, Esq.  
Counsel for Appellant