

No. 04-5393

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

**SALIM AHMED HAMDAN,
Plaintiff-Appellee,**

vs.

**DONALD H. RUMSFELD, United States Secretary of Defense, et al.,
Defendants-Appellants.**

APPEAL FROM THE UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

**BRIEF OF AMICI CURIAE
PEOPLE FOR THE AMERICAN WAY FOUNDATION,
THE RUTHERFORD INSTITUTE AND
EUGENE R. FIDELL
ADVOCATING AFFIRMANCE
IN SUPPORT OF PLAINTIFF-APPELLEE HAMDAN**

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SCHEDULED FOR ORAL ARGUMENT
MARCH 8, 2005

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES
AND CORPORATE DISCLOSURE STATEMENT

Pursuant to D.C. Circuit Rules 28(a) and 29(d), *amici curiae* state the following:

(A) PARTIES AND AMICI

Except for the *amici*, People For the American Way Foundation, The Rutherford Institute and Eugene R. Fidell, all parties, intervenors, and *amici* appearing before the district court and in this court are listed in the Brief for Appellants.

(B) RULINGS UNDER REVIEW

The ruling at issue in this appeal is the district court's November 8, 2004 Order, in *Hamdan v. Rumsfeld, et al.*, No. 04-CV-1519, 2004 WL 2504508 (D.D.C. Nov. 8, 2004) (Robertson, J.) in which Judge James Robertson granted in part the petition of Salim Ahmed Hamdan for Habeas Corpus and denied Donald H. Rumsfeld's cross-motion to dismiss.

(C) RELATED CASES

All related cases brought by detainees at the Guantanamo Naval Base pending in the district court in this Circuit are listed in the Brief for Appellants. Counsel for *Amici* are not aware at this time of any other related cases.

CORPORATE DISCLOSURE STATEMENT

Pursuant to D.C. Circuit Rule 26.1(a), *amici curiae* state the following:

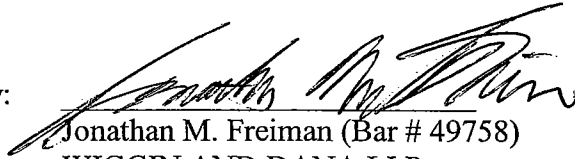
1. People for the American Way Foundation is organized as a corporation. There is no parent corporation and no publicly held corporation owns 10% or more of its stock.
2. The Rutherford Institute is organized as a corporation. There is no parent corporation and no publicly held corporation owns 10% or more of its stock.

Pursuant to D.C. Circuit Rule 26.1(b), *amici* state that their general nature and purpose is the following: *Amici Curiae* are organizations established to promote and protect constitutional rights. Its members have no ownership interest and no members have issued shares or debt securities to the public.

Respectfully submitted,

Dated: December 29, 2004

By:



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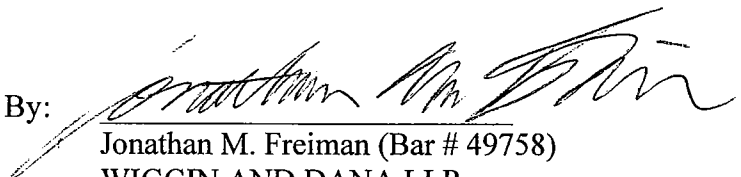
CERTIFICATE OF COUNSEL FOR SEPARATE AMICUS BRIEF:

Pursuant to D.C. Circuit Rule 29(d), Counsel for *Amici Curiae* certifies that a separate amicus brief in support of plaintiff-appellee is necessary because *amici* represented herein are of the opinion that the primary statutory sources for confrontation rights due to defendants in military commissions are Articles 49 and 50 of the Uniform Code of Military Justice. To the undersigned's knowledge, no other *amicus* brief takes this position. This brief addresses no other topic than the federal statutory derivation of confrontation rights due to defendants in military commissions.

Respectfully submitted,

Dated: December 29, 2004

By:



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