

**IN THE
SUPREME COURT OF THE UNITED STATES**

BURHAN UDDIN AHMED,

PETITIONER,

v.

UNITED STATES OF AMERICA,

RESPONDENT.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TWELFTH CIRCUIT

BRIEF FOR PETITIONER

January 15, 2010

Team No. 5050

QUESTIONS PRESENTED

1. Whether the Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224 (2001) (AUMF), authorizes, and if so whether the Constitution allows, the seizure and indefinite military detention of a person lawfully residing in the United States, without criminal charge or trial, based on the government assertions that the detainee conspired with al-Qaeda to engage in terrorist activities?

2. Whether the process afforded by the district court to challenge a designation as an "enemy combatant" was sufficient under the requirements of the Fifth Amendment?

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OPINIONS BELOW

The United States District Court for the District of East Dakota dismissed a petition for habeas corpus submitted by Burhan Uddin Ahmed challenging his "enemy combatant" status; he filed an appeal. The United States Court of Appeals for the Twelfth Circuit agreed to vacate the appeal and hear the case *en banc*. (R. at 5.) The appeal raised questions about national security and the guarantee of basic liberties under the Constitution. (R. at 6.) The Supreme Court of the United States granted certiorari to petitioner's appeal.

STATEMENT OF JURISDICTION

The judgment of the 12th Circuit Court of Appeals was entered on November 24, 2008. The petition for a writ of certiorari was filed immediately thereafter, and was granted on October 2, 2009. This Court has jurisdiction under 28 U.S.C. § 1292(b).

STANDARD OF REVIEW

The application of the Authorization for Use of Military Force (AUMF) and procedural due process under the

Fifth Amendment in regards to this case are reviewed *de novo*. *Hamdi v. Rumsfeld*, 542 U.S. 507 (U.S. 2004).

STATEMENT OF FACTS

Petitioner Burhan Uddin Ahmed lawfully entered the United States with his family on September 8, 2001, to pursue a doctor of veterinary medicine degree at Wilson University in Wilson, East Dakota. On January 3, 2002, federal agents arrested petitioner in Wilson as a material witness in the government's investigation of the 9/11 terrorist attacks. In November 2002, the district court of East Dakota charged petitioner with possession of counterfeit Social Security cards with the intent to defraud. In January 2003, petitioner was charged with making a false statement to the FBI and pleaded not guilty to all charges. The district court set a trial date for July 17, 2003. The court scheduled a hearing for June 15, 2003, for all pretrial motions including a motion to suppress evidence that petitioner asserted was obtained by torture.

However, on June 13, 2003, the government filed an *ex parte* motion to dismiss based on an order signed by the President that same day. The order, among other things, stated that the President had determined petitioner was an

enemy combatant, and a continuing, present, and grave danger to the national security of the United States. The President ordered the Attorney General to surrender petitioner to the Secretary of Defense, and directed the Secretary of Defense to detain him as an enemy combatant. The District of East Dakota dismissed criminal charges, and petitioner was then transferred to military custody and brought to the Army Regional Consolidated Detention Facility in Souders, East Dakota, as an enemy combatant without charge or trial.

Following his transfer to Army Regional Consolidated Detention Facility, petitioner filed for a writ of habeas corpus in the district of East Dakota under 28 U.S.C. § 2241 to secure his release from military detention. The petition asserted that his detention was unlawful; that process afforded was insufficient; and that the government must file criminal charges or releases him.

SUMMARY OF THE ARGUMENT

Petitioner respectfully request this honorable Court reverse the decision of the 12th Circuit Court. When a person is properly designated as enemy combatant pursuant to legal authority of the President, the person may be detained without charges or criminal proceeding. In this case,

petitioner was wrongfully designated as enemy combatant because he never took up arms against the United States and was not captured in the theatre of war. Therefore, he cannot be militarily detained.

Additionally, petitioner was provided with insufficient process and did not receive a meaningful opportunity to be heard. Because petitioner capture did not take place in the theatre of war, he was entitled to stricter procedural safeguards than the ones enumerated in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004).

ARGUMENT

I. THE HISTORY OF THE TERM "ENEMY COMBATANT" INDICATES THAT TWO FUNDAMENTAL CHARACTERISTICS NEED TO BE PRESENT IF AN INDIVIDUAL IS TO BE DESIGNATED AS SUCH.

Part of the complexity of this case stems from the lack of a definition of "enemy combatant" consistently accepted and utilized "across the board." Thus, a non-exhaustive enumeration of instances where it has been used might prove helpful. In section 2 of the Detention of Enemy Combatant Act, Congress noted that "enemy combatant" referred to "members of the armed forces of the state with which another state is at war." Detention of Enemy Combatants Act

(Introduced in House) 109th CONGRESS 1st Session H. R. 1076
March 3, 2005.

Ex parte Quirin, 317 U.S. 1 (1942), is one of the first cases where this Court used the term enemy combatant. Initially, it meant to distinguish between unlawful and lawful combatants.

Unlawful combatants are likewise subject to capture and detention. . . . The spy who secretly and without uniform passes the military lines of a belligerent in time of war, seeking to gather military information and communicate it to the enemy, or an enemy combatant who without uniform comes secretly through the lines for the purpose of waging war by destruction of life or property, are familiar examples of belligerents who are generally deemed not to be entitled to the status of prisoners of war. . . .

Ex parte Quirin at 31.

Following the 9/11 attacks, President Bush's administration chose to designate as enemy combatant those detained under the "Detention, Treatment, and Trial of Certain Non-Citizens in the War against Terrorism," a presidential military order issued on November 13, 2001. Thereafter, enemy combatant became the formal term used for alleged members and supporters of al-Qaida or the Taliban regime detained by the United States, "or associated forces

that are engaged in hostilities against the United States or its coalition partners." *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006), footnote 1. *Hamdi v. Rumsfeld*, 542 U.S. 507, 516, (2004).

Despite its different uses in different contexts, two fundamental characteristics can be extracted as a common denominator: 1) the enemy combatant must have taken up arms and fought against the United States during war time (*Hamdi*, 542 U.S. at 518, quoting that "individuals who fought against the United States in Afghanistan as part of the Taliban . . . are individual Congress sought to target in passing the AUMF"), and 2) the enemy combatant must have been captured in the theater of military operations, also known as the "theatre of war."

In *Ex parte Quirin*, eight Germans soldiers were deemed enemy combatants because they associated with the German Reich's military arm and came to the United States for the purpose destroying war industries and facilities in the United States, which are overt acts comparable to taking up arms. *Id.* at 37-38. Although World War II predominantly took place in Europe, it is important to remember that the United States also became the theatre of war following the attack

on Pearl Harbor on December 7, 1941. That attack formally marked this country's entrance in the war. Consequently, those German soldiers were rightfully designated as enemy combatants.

In *Hamdi*, this court established that Hamdi fought against the United States. Hamdi affiliated with a Taliban military unit, received weapon training, and remained with his unit at the time the Northern Alliance fought against the Taliban in Afghanistan. When his unit surrendered, he surrendered his Kalashnikov assault rifle. *Id.* at 513. Moreover, Hamdi was captured in Afghanistan. The combination of both characteristics made him an enemy combatant. *Id.* at 518-20.

The facts in the case at bar do not permit to conclude that petitioner was an enemy combatant. Petitioner was not arrested or captured while fighting against the United States. Petitioner had lawfully entered the United States with his family and pursued a doctor of veterinary medicine degree. Of all the alleged evidence gathered against him stated in the Murphy Declaration, a hearsay document, none referred to petitioner taking up arms against the United States. What is more, the allegations contained in the

Murphy Declaration do not suffice to infer the same bent intention as it was the case for the German soldiers in *Quirin* or to Hamdi. Unlike these cases, petitioner has committed no overt act supporting such inference of intent.

The 12th Circuit Court of Appeal's attempt to draw an analogy between petitioner's alleged mission and the German soldiers' in *Quirin* is inaccurate and misinterprets the facts. In *Quirin*, the affiliation of the German soldiers to the German Reich is unequivocal and uncontested. In this case, the government cannot unequivocally demonstrate the same type of affiliation between al-Quaeda and the Taliban regime in Afghanistan. In other words, it cannot demonstrate that al-Quaeda is to the Taliban regime what the German soldiers were to Germany Reich during the World War II, e.i., its official military arm. On the Council on Foreign Relation website (<http://www.cfr.org/publication/9126/>), al-Quaeda is described as an international terrorist network, whereas the German soldiers only belonged to the German Reich. Therefore, any analogy between both entities is flawed and inaccurate. Second, petitioner was not apprehended in the theater of war as the German soldiers and Hamdi were. The majority of American military operations in this so

called "War on Terror" took place in Afghanistan, which still is the theater of war.

It might be tempting to draw a parallel between the attack on Pearl Harbor and the 9/11 attacks as being two incidents transforming the United States into the theater of war. However, both incidents occurred in different contexts and must be distinguished. According to Justice Scalia in *Boumediene v. Bush*, 128 S.Ct. 2229 (2008), 9/11 was one event among many perpetrated by radical Islamist, throughout a certain time frame, against American targets.

"The enemy began by killing Americans and American allies abroad: 241 at the Marine barracks in Lebanon, 19 at the Khobar Towers in Dhahran, 224 at our embassies in Dar es Salaam and Nairobi, and 17 on the USS Cole in Yemen. . . . On September 11, 2001, the enemy brought the battle to American soil. . . ."

Id. at 2294. Thus, the 9/11 attacks followed a series of attacks against Americans targets rather and was not an official declaration as it was the case for Pearl Harbor.

A. THE AUTHORIZATION FOR USE OF MILITARY FORCE ("AUMF") DOES NOT PERMIT INDEFINITE DETENTION, AND INTERPRETING THE AUMF DIFFERENTLY IS INACURATE.

In the document filed to oppose petitioner's filing for a writ of habeas corpus, the government asserted that the AUMF granted to the President the authority to indefinitely

detain those who associate with al-Quaeda and prepare for terrorist act (R. at 8.) Such a statement is inconsistent with *Hamdi's* interpretation of the AUMF and reflects a gross statutory misinterpretation. The *Hamdi* plurality clearly noted that the detention of individuals who fought against the United States in Afghanistan "*for the duration of the particular conflict in which they were captured*, is so fundamental and accepted an incident to war as to be an exercise of the 'necessary and appropriate force' Congress has authorized the President to use." *Hamdi*, 542 U.S. at 519 (emphasis added).

When interpreting a statute or determining Congress's intent, a basic principle is that courts should "give effect, if possible, to every clause and word of a statute, avoiding, if it may be, any construction which implies that the legislature was ignorant of the meaning of the language it employed." *United States v. X-Citement Video, Inc.*, 513 U.S. 64, 68 (1994) Justice Scalia, dissenting. This statement also means that the judiciary and the executive should avoid adding language to a statute in its absence. If Congress wanted "indefinite detention" to appear in the AUMF, the presumption is that it would have been included in the statute.

Detention is the exception rather than the norm. Justice O'Connor quite accurately captured that rule in the following statement:

[A]s critical as the Government's interest may be in detaining those who actually pose an immediate threat to the national security of the United States during ongoing international conflict, history and common sense teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse of others who do not present that sort of threat.

Hamdi, 542 U.S. at 530. The above warning could not have been more accurate and depict the essence of petitioner's case.

B. THE PURPOSE OF MILITARY DETENTION IS TO PREVENT ENEMY COMBATANTS FROM RETURNING TO THE THEATRE OF WAR.

The case *Re Territo*, 156 F.2d 142 (9th Cir. 1946) provides good insight in regards to the purposes served by military detention. The *Re Territo* court explains that "[t]he object of capture is to prevent the captured individual from serving the enemy. [The individual] is disarmed and from then on *must be removed as completely as practicable from the front*, treated humanely and in time exchanged, repatriated or otherwise released." *Id.* at 145 (emphasis added). The expression "the front" can be

construed as the equivalent of the theater of war because both terms relate to the same concept, *e.i.*, the battlefield. Consequently, *Re Territo* stands for the premise that military detention aims to remove the individual from the theatre of war.

In the military order that designated petitioner as an enemy combatant, "the President further determined that Ahmed's detention by the military was "necessary to prevent him from aiding al-Quaeda"." (R. at 7.) However, a military detention primary purpose is preventing the enemy combatant from returning to the battlefield, which implies more than simply aiding the enemy. *Hamdi*, at 519. See also *Padilla v. Hanft*, 423 F.3d 386, 391 (4th Cir. 2005). Justice Scalia's dissent in *Boumediene* demonstrates what the ultimate objective of military detention is, as he complains that "[a]t least 30 of those prisoners hitherto released from Guantanamo Bay have returned to the battlefield. . . . Some have been captured or killed." *Boumediene v. Bush*, 128 S.Ct. 2229, 2294-95 (U.S. 2008). Given the fact that petitioner was not captured in the battlefield but on American soil, a military detention is inappropriate because it renders inapplicable the rationale of preventing his return to the battlefield.

C. THE INDEFINITE AND INDETERMINATE NATURE OF THE "WAR ON TERROR" ONLY SERVES AS A FRAMEWORK SUPPORTING THE CONCEPT OF INDEFINITE DETENTION.

When Hamdi contested the possibility of an indefinite detention, the Government responded that "the detention of enemy combatants during World War II was just as indefinite while that war was being fought." Brief for Respondent 3, at 16. The court rightfully admitted that the current "war on terror" had the potential of perpetual detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 520.

Most criticisms on the expression "War on Terror" raise the issue that it provides a framework for perpetual war, and produces a state of endless conflict since terrorist groups can continue to arise indefinitely. President Bush has pledged in numerous occasions that the War on Terrorism "will not end until every terrorist group of global reach has been found, stopped, and defeated." (White House Press Releases, <http://georgewbush-whitehouse.archives.gov/news/releases/2001/09/print/20010920-8.html>). However, he later admitted that the war on terror could not be won. (CBC News, <http://www.cbsnews.com/stories/2004/08/31/politics/main639709.shtml>).

Dr. David Kilcullen, counterinsurgency and counterterrorism advisor to Gen. David Petraeus and former U.S. Secretary of State Condoleezza Rice, has asserted that “[w]e must distinguish al-Qaeda and the broader militant movements it symbolizes . . . from the tactic of terrorism itself. In practice . . . the “War on Terrorism” is a defensive war against a world-wide Islamist jihad, a diverse confederation of movements that uses terrorism as its principal, but not its sole tactic. Countering Global Insurgency - Lieutenant Colonel Dr. David Kilcullen (2004), <http://smallwarsjournal.com/documents/kilcullen.pdf>). In an article titled “The Nameless Enemy,” *Revue Défense Nationale et Sécurité Collective* No 10, 29/10/08, French Army officer LTC Jean-Pierre Steinhof described “war on terror” as a “semantic, strategic and legal perversion, arguing that terrorism is not an enemy, but rather a method of combat.”

D. CONGRESS ENACTED THE *UNITING AND STRENGTHENING AMERICA BY PROVIDING APPROPRIATE TOOLS REQUIRED TO INTERCEPT AND OBSTRUCT TERRORISM ACT* OF 2001 (“PATRIOT ACT”) IN ORDER TO GIVE MORE PRECISE GUIDELINES CONCERNING ALLEGED TERRORISTS ON AMERICAN SOIL AND THE DURATION OF THEIR DETENTION.

If the AUMF, enacted on September 18, 2001, was the quick response to 9/11 the President needed to take

immediate retaliatory measures, this court must not forget that on October 26, 2001 (only 38 days later), Congress enacted a more complete and specific law regarding the powers granted to the President to detain enemy aliens: the Patriot Act. Circuit Judge Gray rightfully pointed out that the AUMF did not discuss the issue of detaining alleged terrorist taken into custody in the United States. While the Patriot Act grants a broad authority to the President to manage alleged terrorists, it categorically forbids their indefinite detention. 8. U.S.C. § 1226a(6).

As it has been discussed earlier, courts ought to show deference to congressional intent when such intent is clear and unambiguous. The Patriot Act clearly and unambiguously prohibits indefinite detention. The following passage is an excellent summary of Congress's intent when enacting the Patriot Act:

Through the Patriot Act[,]. . . Congress established a specific method for the government to detain aliens affiliated with terrorist organizations that the government believes have come to the United States to endanger our national security, conduct espionage and sabotage, use force and violence [or] engage in terrorist activity. *This could not match more closely the allegations against Ahmed.* . . . (emphasis added).

(R. at 39.) Therefore the AUMF and the Patriot Act must be read in conjunction (and not in contradiction) in order to not render any of the provisions mere surplusage. Although they deal with two different presidential powers in writing, their essence of the end result is the same.

II. THE PROCESS AFFORDED TO PETITIONER BY THE DISTRICT COURT TO CHALLENGE HIS STATUS AS AN "ENEMY COMBATANT" WAS INSUFFICIENT UNDER THE REQUIREMENTS OF THE FIFTH AMENDMENT WHEN CONSIDERING CIRCUMSTANCES SURROUNDING HIS ARREST.

The process provided to petitioner by the district court was insufficient under the requirements of the Fifth Amendment. In applying the *Hamdi* framework, the magistrate judge erred overlooking the circumstances surrounding petitioner's arrest and the specific facts of his case. Petitioner should have been provided with stricter procedural safeguards regarding his challenge of his enemy combatant status because the government failed to show any undue burden necessary to permit for more relaxed evidence standards. In applying the burden-shifting protocol to this case, the district court failed to properly balance the government's interests with petitioner's interest. The mere fact that the language used by the court in *Hamdi* is permissive rather than authoritative should not

automatically compel a more relaxed evidentiary standard in every "enemy combatant" case.

Petitioner was arrested in the United States by federal agents, whereas Hamdi was captured in Afghanistan, an active zone of military operation. In *Hamdi* the Court took into account specific burdens that would prevent the government from efficiently and safely performing its duties as it pertained to waging war. Firstly, the *Hamdi* court found that military officers involved in the initial capture and screening process through which Hamdi was initially declared an enemy combatant could be unnecessarily distracted whilst in the midst of war. Secondly, it established that discovery into military operations would put government secrets at needless risk. Thirdly, the court considered the fact that such discovery would probably be futile because the evidence would be buried "under the rubble of war," and as such unreachable. *Hamdi*, 542 U.S. at 531-32. None of these assertions were made in the present case.

The mere fact that the language in *Hamdi* is permissive rather than authoritative should not automatically support a relaxed evidentiary standard. The court specifically held

that "proceedings *may* be tailored" and "hearsay, for example, *may* need to be accepted." *Id.* at 533-34.

A. THE CIRCUMSTANCES SURROUNDING PETITIONER'S ARREST DIFFER GREATLY FROM HAMD'S CAPTURE, AND MATTER IN THE DISCUSSION PERTAINING TO THE AMOUNT OF PROCESS DUE.

Hamdi was captured in Afghanistan at a time when Taliban forces were actively fighting the United States. Hamdi was then detained interrogated by the American government in Afghanistan, and determined to be an enemy combatant prior to his transfer to Guantanamo Bay in January 2002. In April 2002, it was determined that Hamdi was an American citizen and the authorities then transferred him to the United States for military detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 510 (2004).

While applying the "Matthews test" (*Matthews v. Eldridge*, 424 U.S. 319 (1976)), the court took into account certain "weighty and sensitive" government interests such as potential practical difficulties pertaining to waging war. The court outlined those interests in three categories: 1) primary witnesses would be military officers "unnecessarily and dangerously distracted" by legal proceedings while in the act of waging battle in a foreign theatre of war such as Iraq or Afghanistan; 2) allowing

discovery into "military operations" would be dangerous to national defense; 3) such discovery would most likely be futile as the evidence would be "buried under the rubble of war." *Hamdi v. Rumsfeld*, 542 U.S. 507, 531-32. The court found that these sensitive security interests were important enough to both enumerate them specifically and to weigh in favor of looser procedural safeguards afforded to Hamdi.

The circumstances surrounding petitioner's case are categorically different from Hamdi's. Petitioner was arrested, while lawfully residing in the United States, by federal agents in the district of East Dakota for criminal charges relating to Social Security fraud. He was not captured in a foreign country amidst military hostilities involving the United States government. Unlike Hamdi, petitioner was not screened or interrogated by the military prior to his designation as an enemy combatant. The government based his designation solely on allegations proffered in the Murphy Declaration and interrogations (where torture was alleged) after petitioner was detained. (R. at 7.)

Circumstances surrounding petitioner's arrest are extremely pertinent to this case because in choosing to

apply the *Hamdi* framework, the magistrate judge ignored or plainly missed arguments central to the court's reasoning behind such process in that case. Here, the argument of litigation causing "dangerous and unnecessary distraction" to military officers engaged in the act of waging battle becomes a moot one. The arrest was effectuated by federal agents, available and presumably willing to answer questions.

The second point that weighed in favor of looser procedural safeguards in *Hamdi* was that allowing discovery into military operations would be dangerous to national security. *Hamdi* at 531-32. In this case, petitioner was not involved in military operations; thus, discovery into military operations should not be an issue.

The final argument taken into account while constructing the *Hamdi* framework is the suggestion that such discovery into military operations would be futile as most if not all of the evidence would be "buried under the rubble of war." *Hamdi* at 531-32. Petitioner was arrested in the United States where no military conflict is currently ongoing; consequently, the information may be easily gathered from the FBI or the Department of Defense or even

local law enforcement if they were involved in the initial investigation.

B. PETITIONER SHOULD BE AFFORDED STRICTER PROCEDURAL SAFEGUARDS BECAUSE THE PERSONAL LIBERTY INTERESTS AT STAKE OUTWEIGH THE GOVERNMENT'S SECURITY INTERESTS.

In petitioner's case, the magistrate judge that determined the process to be used in this case applied *Hamdi's* the framework for due process provided. More specifically, the magistrate judge provided that petitioner must first "receive notice of the factual basis for his classification, be afforded "a fair opportunity to rebut the Government's factual assertions," and be given a hearing before a "neutral decisionmaker." *Hamdi*, 542 U.S. at 533. For reasons discussed earlier, the government cannot evoke the same arguments it did in *Hamdi* for looser procedural safeguards. In *Hamdi* case, the court used *Matthews v. Eldridge* to setup a test to balance the government's sensitive security interest against *Hamdi's* personal liberty interest.

The government contends that the process given to petitioner was adequate and that petitioner failed to participate in his own hearing by issuing only a general denial. In the present case the government had ample opportunity to present evidence for the petitioner's

continued detention. Instead, the government offers only a document that made allegations without evidentiary support rather than facts and physical evidence. It is the government not petitioner, who failed to participate in the proceedings as they pertain to this case.

Moreover, petitioner had to produce evidence not only to rebut the government's allegations, but that was more persuasive evidence, which is very different from the idea of challenging his enemy combatant status. The fact that the Murphy Declaration is the sole evidence upon which the government was willing to offer Ahmed the chance to rebut against is egregious. How does one with limited resources, currently in military detention, can effectively challenge a hearsay document? The idea of challenging one's status implies the possibility of cross-examination of witnesses or of the incriminating evidence, which is completely different from proffering more persuasive evidence.

C. THE HEARSAY EVIDENCE IN THE INSTRUMENT OF THE "MURPHY DECLARATION" IS INSUFFICIENT BASED ON THE SPECIFIC LANGUAGE OF HAMDI.

"[E]nemy combatant proceedings may be tailored to alleviate their uncommon potential to burden the Executive at a time of ongoing military conflict. Hearsay, for

example, may need to be accepted as the most reliable available evidence from the Government in such a proceeding." *Hamdi*, 542 U.S. at 533-34. The language used specifically "proceedings *may* be tailored" and "hearsay, for example, *may* need to be accepted" implies that in applying this framework to future cases, circumstances may arise that do not have to be so rigidly constrictive of evidence and can therefore impose a more rigorous credible evidence standard upon the discretion of the court among other things.

The *Hamdi* court used permissive rather than authoritative in this regard so as to ensure that the test can be applied to a variety of "enemy combatant" cases with different sets of circumstances in regards to national security as well as surrounding facts. *Hamdi* at 533-34. The government insists the lack of authoritative language in the *Hamdi* opinion compels an automatic application of the looser evidentiary standard applied in that case.

The burden-shifting framework of *Hamdi* was never intended to be an empirical formula for all enemy combatant cases should, and as the *Hamdi* court itself stated, it should be read narrowly. *Id.* at 519.

CONCLUSION

For the forgoing reasons, Petitioners request this court reverse the decision of the Twelfth Circuit Court of Appeals.

Respectfully Submitted,

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Attorneys for Petitioner