

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

GULET MOHAMED,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:11-CV-0050
)	
ERIC H. HOLDER, JR., in his official capacity as)	
Attorney General of the United States, <i>et al.</i> ,)	
)	
Defendants.)	

MOTION TO CONTINUE EX PARTE HEARING

Defendants respectfully move the Court for an order continuing the *ex parte, in camera*, sealed hearing, which is currently scheduled for February 24, 2015, see ECF No. 173, to enable Defendants to make additional submissions in advance of the hearing, either *ex parte, in camera* or public submissions, if possible, addressing issues identified by the Court in its February 2, 2015 Order. Defendants respectfully request that the *ex parte, in camera*, sealed hearing be set for March 17, 2015, or for any day that week or thereafter that is convenient for the Court.

Defendants submit the following in support of this motion:

1. On January 30, 2015, the Court heard oral argument by the parties on their respective motions for summary judgment on Plaintiff’s procedural due process claim. In connection with their motion for partial summary judgment, Defendants argued in the alternative that the Court should enter judgment for them as a result of the Attorney General’s invocation of the state secrets privilege. See ECF No. 105; ECF No. 159 at 37-40; ECF No. 168 at 18-20.

2. On February 2, 2015, the Court issued an order scheduling an *ex parte, in camera*, sealed hearing to be held on February 24, 2015. The Court scheduled the *ex parte* hearing “in

order to provide defendants with the opportunity to provide and the Court to consider additional information concerning the defendants' claims concerning the existence of state secrets and their relevance to the pending procedural due process claims." ECF No. 173 at 1. The Court identified eight specific issues about which it sought additional explanation or information. *Id.* at 2-3.

3. This request for an extension is supported by good cause. Defendants believe that it may be necessary and helpful to the Court to receive, prior to any hearing, additional *ex parte* submissions to address some of the specific issues raised by the Court. Some of the specific issues raised in the Court's order may implicate facts that are not before the Court on the existing record. For example, item (6) relating to *ex parte* judicial review and approval of No Fly placements has not previously been addressed by the Government and would benefit from further submissions prior to any hearing. Defendants require additional time to confer with appropriate officials and prepare any appropriate submission on this and other issues raised by the Court's Order. In addition, it is possible that some of the information and explanation sought by the Court from the Government can be presented on the public record and addressed by both parties. To the extent the Defendants can supplement the public record on at least some of issues raised by the Court, Defendants believe it would be beneficial to the litigation process. Should the Defendants file some additional explanation or information publicly, they also propose that Plaintiff be allowed to file submissions in response.

4. Accordingly, Defendants request that the *ex parte, in camera*, sealed hearing be continued until March 17, 2015, or any day that week or thereafter that is convenient for the Court.

5. Counsel for Defendants conferred with Plaintiff's counsel and Plaintiff's counsel has indicated that he opposes the relief sought through this motion.

Dated: February 18, 2015

Respectfully submitted,

JOYCE R. BRANDA
ACTING ASSISTANT ATTORNEY GENERAL
CIVIL DIVISION

DANA BOENTE
UNITED STATES ATTORNEY

DIANE KELLEHER
ASSISTANT BRANCH DIRECTOR
FEDERAL PROGRAMS BRANCH

JOSEPH C. FOLIO III
SAMUEL M. SINGER
ATTORNEYS
U.S. DEPARTMENT OF JUSTICE
CIVIL DIVISION, FEDERAL PROGRAMS BRANCH
20 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20001
TELEPHONE: (202) 514-9836
FAX: (202) 616-8460
E-MAIL: amy.powell@usdoj.gov

/s/
LAUREN A. WETZLER
ASSISTANT UNITED STATES ATTORNEY
CHIEF, CIVIL DIVISION
OFFICE OF THE UNITED STATES ATTORNEY
JUSTIN W. WILLIAMS UNITED STATES ATTORNEYS
BUILDING
2100 JAMIESON AVE.,
ALEXANDRIA, VA. 22314
TELEPHONE: (703) 299-3752
FAX: (703) 299-3983
E-MAIL -LAUREN.WETZLER@USDOJ.GOV

ATTORNEYS FOR THE DEFENDANTS

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following counsel of record:

Gadeir I. Abbas
The Law Office of Gadeir Abbas
1155 F Street NW, Suite 1050
Washington, DC 20004
Phone: 720-251-0425
Fax: 720-251-0425
gadeir.abbas@gmail.com

DATED: FEBRUARY 18, 2015

/S/
LAUREN A. WETZLER
ASSISTANT UNITED STATES ATTORNEY
CHIEF, CIVIL DIVISION
OFFICE OF THE UNITED STATES ATTORNEY
2100 JAMIESON AVE.,
ALEXANDRIA, VA. 22314
TELEPHONE: (703) 299-3752
FAX: (703) 299-3983
E-MAIL LAUREN.WETZLER@USDOJ.GOV