

From the desk of Virginia Sloan

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Dear Friend,

In the Courts

Amicus brief filed in Uighurs' case

The Constitution Project filed a [friend of the court brief](#) in the case of the 17 Guantanamo detainees known as the Uighurs. As I previously reported, the Bush administration admitted that the [Uighurs are not enemy combatants](#), but is appealing U.S. District Court Judge Ricardo Urbina's order releasing them. The *amicus* brief argues that the Executive's assertion that only the political branches have the power to order the Uighurs released violates the Suspension Clause and Article III of the Constitution and intrudes upon the power of the judiciary to decide cases. A three-judge panel of the U.S. Court of Appeals for the District of Columbia will examine the issue at a [hearing](#) on November 24. The Brennan Center for Justice, the Rutherford Institute, and the National Association of Criminal Defense Lawyers joined the Constitution Project on the brief filed October 31st in *Kiyemba v. Bush*.

Louisiana court mired in charges of injustice

Louisiana's Fifth Circuit Court of Appeals is grappling with charges that it [denied, without review, nearly three thousand appeals by pro se litigants over a 13 year period](#). Chief Judge Edward Dufrense Jr. allegedly signed the denials without the mandatory three-judge review of applications for hearings. In early November, the state's Supreme Court [denied](#), by a 3 to 2 vote, a request to have 300 appeals filed since May 2007 reviewed by judges outside the circuit. News reports on this situation were prompted by two anguished suicide notes left by the staffer for the court whose task was to review these cases.

Amicus brief filed in *Al-Marri* case

In an *amicus* brief filed late last month, the Constitution Project and the Rutherford Institute urged the U.S. Supreme Court to examine the Bush administration's [indefinite military detention without trial of a legal U.S. resident](#). The U.S. Court of Appeals for the Fourth Circuit sitting *en banc* had narrowly overturned a three-judge panel that held that Ali Saleh Kahlah Al-Marri should either be freed or charged as a civilian. The Supreme Court [scheduled *Al-Marri v. Pucciarelli* for conference](#) on November 25.

Hamdan Sentence Unchanged

On October 29th, a military commission at Guantanamo Bay denied the Bush administration's request to reconsider the sentence imposed on Salim Ahmed Hamdan in August. As I previously reported, Hamdan, a former driver for Osama bin Laden, was convicted of providing support to terrorists and sentenced to 66 months in prison. However, since the commission jury gave him credit for the 61 months and 8 days he had already served in military detention, his remaining sentence is 5 months. With the denial, Hamdan will finish serving his sentence on December 31st. The Bush administration has not yet stated whether it will release Hamdan at that time, or attempt to continue to hold him as an "enemy combatant."

In the States

Bipartisan Panel Recommends Death Penalty Abolition in Maryland

A bipartisan and diverse panel in Maryland, headed by former US Attorney General Benjamin Civiletti, yesterday recommended that the state abolish its death penalty. The panel, in a 13 to 7 vote, concluded that the system is prone to error and disparities, is too expensive, and fails to deter crime. The panel's recommendation will be considered by the legislature in its upcoming session.

With a Little Help from Our Friends

Criminal Justice Transition Coalition Releases "Smart on Crime"

On Thursday, November 6, the Criminal Justice Transition Coalition released recommendations for the next Administration and Congress. Coordinated by the Constitution Project, this collaborative effort brought together more than 25 organizations and individuals with expertise on criminal justice issues. The document identifies and summarizes problems over 15 broad issue areas, evaluates possible solutions and recommendations for policy change, and cites other materials that provide additional background information. The full document is available at <http://2009transition.org/criminaljustice>.

Federalist Society National Lawyers Convention

The Federalist Society will hold its annual national lawyers convention from November 20-22. One panel of particular interest will take place at 3:15 on Thursday, November 20, and is entitled "International & National Security Law: International Law & the Separation of Powers."

Verbatim

"At a time when the nation is facing its worst economic crisis since the Great Depression, it is essential to review the cost of the criminal justice system to all Americans. Such a review should not only account for the cost in terms of dollars and cents, but also in terms of human lives and capital, which are our nation's most valuable resource."

-Smart on Crime: Recommendations for the Next Administration and Congress

<http://2009transition.org/criminaljustice>

Sincerely,



Virginia E. Sloan