

MAR 25 2009


### Respondents.

This matter came before the Court for argument on petitioner's motion for summary judgment and his renewed motion for summary judgment. The Court reviewed all of the papers filed by the parties with respect to this matter. Petitioner argues that, even accepting all of the factual assertions made by the government, he is entitled to summary judgment on his petition for habeas corpus, and therefore to his release. He maintains that this is so regardless of whether the Court applies his view of the appropriate definition of "enemy combatant" to the facts of this case or, as stated in his more recent filings and at oral argument, whether the Court applies the government's new "definitional framework" as set forth on page 2 of the government's filing of November 13, 2009 -- and in particular the second sentence of that framework, because both parties agree that this sentence is most likely to be applicable in this case. The Court has considered both alternatives, and has concluded that under either of the asserted legal bases for detention there are genuine issues of material fact that cannot be resolved

on a motion for summary judgment and must await a hearing on the merits. For these reasons, it is hereby

ORDERED that petitioner's motion for summary judgment [# 28] and his renewed motion for summary judgment [# 224] are DENIED.

SO ORDERED.

  
PAUL L. FRIEDMAN  
United States District Judge

DATE: 3/25/09