

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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SOULEYMANE DEMBELE, et al.,)
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Petitioners,)
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v.) No. 20 CV 02401
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ROBERT GUADIAN, etc., et al.,) Chicago, Illinois
) May 7, 2020
Respondents.) 2:31 p.m.

TRANSCRIPT OF TELEPHONIC PROCEEDINGS
BEFORE THE HONORABLE REBECCA R. PALLMEYER

APPEARANCES TELEPHONICALLY:

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1 (Proceedings heard telephonically:)

2 THE CLERK: The United States District Court for the
3 Northern District of Illinois is now in session. The
4 Honorable Chief Judge Rebecca R. Pallmeyer presiding.

5 20 CV 2401, Dembele versus Guadian.

6 THE COURT: Good afternoon. I know a number of
7 people are on the line. Can I ask you to introduce
8 yourselves? Just as a reminder, when you do speak up, you
9 should always tell us your name because the court reporter is
10 making a record.

11 But we'll begin with the lawyers for the petitioner.

12 MS. CHOUDHURY: Thank you, your Honor. This is
13 Nusrat Choudhury of the ACLU of Illinois. And I believe some
14 of my colleagues are on the line as well.

15 THE COURT: All right. Thank you.

16 And for the respondent?

17 MR. OSWALD: The government, Craig Oswald from the
18 U.S. Attorney's Office, as well as Jana Brady and Elizabeth
19 Treacy on behalf of the United States.

20 MR. HOFFMAN: George Hoffman -- I'm sorry. George
21 Hoffman on behalf of Sheriff Prim and Chief Sitkie in their
22 individual capacities.

23 THE COURT: All right. And that's everyone?

24 I set this over in part because I just was really
25 struggling with the decision when I talked to you last week.

1 Have there been any new developments either at the jail or
2 with respect to Mr. Butt's transport?

3 MR. OSWALD: Your Honor, we have -- we asked again
4 for an update. We've been trying to get one all day in terms
5 of the actual date. It's still in this timeframe, they
6 believe, of a June date. We think it's an early June date.
7 We were hoping before this, we have been -- made some
8 additional phone calls today trying to lock a date down.

9 We were able to remove someone to France, but that's
10 obviously not Pakistan. There is a -- so we have to find a
11 date that the flights are going to resume to Pakistan. And I
12 don't have a specific one now. We have been working on that
13 to ask.

14 At the jail, one of the issues that came up the last
15 time was the spacing. Since the last hearing, they have
16 implemented not only that there -- I believe that was the day
17 before the masks were implemented, so everybody is wearing a
18 mask. That's being enforced. And they now also have the
19 spacing on the floor in the lunchroom area to enforce the
20 six-foot in between detainees, you know, when they're waiting
21 for lunch and for medication.

22 THE COURT: And still no -- no positive tests of
23 McHenry County inmates, but I understand you're not testing
24 asymptomatic individuals, correct?

25 MR. OSWALD: That's correct, your Honor. There's

1 no -- the situation remains the same. We have not had any
2 incidents. We are not testing people that are asymptomatic.
3 Everybody now was -- would be together in this pod that
4 Mr. Butt is in for 30 days, and nobody has shown symptoms in
5 that same pod. Nobody -- none of the detainees have been in
6 and out. Obviously, the staff members are in there. They are
7 all now wearing masks and protective equipment.

8 MS. CHOUDHURY: Your Honor?

9 THE COURT: Go ahead.

10 MS. CHOUDHURY: Thank you, your Honor. Sorry to
11 interrupt. I just wanted to make as a point of clarification
12 that it's our understanding that Mr. Butt was transferred into
13 his pod on April 22nd, which is not 30 days ago.

14 THE COURT: Okay. And just to return to a question I
15 had is, have there been any positive tests on the part of
16 McHenry County staff?

17 MR. OSWALD: There have been no positive tests for
18 any staff member. There have been no positive tests at the
19 McHenry County Jail at all.

20 THE COURT: Mr. Butt is entitled to prompt removal
21 from the United States. And I understand that it's expected
22 that that will happen early in June, but I also know that we
23 can't be certain how soon a flight will be departing for
24 Pakistan and that his detention in McHenry could last longer
25 than the presumptive six months that we ordinarily expect

1 would be the outside limit of the amount of time somebody
2 would have to wait. Because I believe he's been in custody
3 since January.

4 MS. CHOUDHURY: That's right, your Honor.

5 THE COURT: I think this is -- his case is really a
6 close one. He does have conditions that are significantly --
7 significant for a risk for COVID-19, but he's in a facility
8 that I think is being run quite well at which somebody who
9 wants to exercise social distancing and wear masks can do so.

10 All that said, the fact that there's no firm date on
11 which he's going to be removed from the United States troubles
12 me, particularly because the destination to which he would be
13 moved is one for which I think the flights will be -- that
14 which are more difficult to arrange.

15 My understanding of the court's authority in a case
16 involving ICE is that the court doesn't necessarily set bond
17 conditions, but what it can do is direct that -- direct that
18 the agency, direct that the institution release an individual
19 on conditions that the federal agency deems appropriate. In
20 this case, that might involve a bond. That might involve
21 secured property. It might involve other conditions.

22 But my sense is that Mr. Butt, given that he should
23 be removed soon but we don't know how soon, should be released
24 pending his removal to Pakistan on conditions that ICE
25 imposes. I'm willing to supervise those, but I think in the

1 first instance, a proposal should be made by ICE.

2 MR. OSWALD: How would you --

3 THE COURT: Why don't I do this. I will reserve
4 jurisdiction over this, but I ask that you make a proposal
5 within -- I'm going to give you until like Monday to make a
6 proposal about conditions for his release that I can at least
7 review.

8 MR. OSWALD: Okay. We will make a proposal by
9 Monday, your Honor.

10 THE COURT: All right. Thank you.

11 MS. CHOUDHURY: Thank you, Judge.

12 (Proceedings adjourned at 2:37 p.m.)

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14 C E R T I F I C A T E

15 I, Judith A. Walsh, do hereby certify that the
16 foregoing is a complete, true, and accurate transcript of the
17 telephonic proceedings had in the above-entitled case before
18 the Honorable REBECCA R. PALLMEYER, one of the judges of said
19 court, at Chicago, Illinois, on May 7, 2020.

20

21 /s/ Judith A. Walsh, CSR, RDR, F/CRR May 15, 2020

22 Official Court Reporter

23 United States District Court

24 Northern District of Illinois

25 Eastern Division