

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

JANE DOE, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	1:05-cv-701 (LMB/JFA)
)	
YUSUF ABDI ALI,)	
)	
Defendant.)	

**STATEMENT OF INTEREST
SUBMITTED BY THE UNITED STATES OF AMERICA**

By order dated January 24, 2014, this Court presented the U.S. Department of State with a “last opportunity . . . to express its views on defendant’s claim of immunity” in this matter. (ECF No. 82.) The United States of America, pursuant to 28 U.S.C. § 517,¹ and in light of the Court’s January 24 order, respectfully informs the Court that, for the reasons stated herein, the United States is not in a position to present views to the Court concerning this matter at this time.

With respect to the issue of immunity in this matter, the Department of State has advised the Department of Justice as follows:

1. By letter dated November 30, 2013, Somalia’s then-Prime Minister Abdi Farah Shirdon requested that Secretary of State Kerry use his “good offices to obtain immunity” for the defendant in this case. (*See* ECF No. 78.) When the Department of State receives a request from a government to suggest the immunity of foreign officials or former officials, it generally

¹ 28 U.S.C. § 517 provides that “any officer of the Department of Justice[] may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States.”

discusses that request with the relevant government before taking any position on the issue. The Department of State has had only limited opportunities to discuss the matter with the Government of Somalia.

2. On December 2, 2013, the Parliament of Somalia passed a vote of no confidence in the government of Prime Minister Shirdon; Prime Minister Shirdon was soon replaced. In the ensuing weeks, the Department of State received a number of communications concerning the immunity of the defendant in this matter, as the Solicitor General explained in a letter to the Clerk of the Supreme Court in *Samantar v. Yousuf*, 12-1078 (S. Ct.). See Letter from Donald B. Verrilli, Jr., Solicitor General, to the Hon. Scott S. Harris, Clerk, Supreme Court of the United States (Jan. 8, 2014) (copy attached hereto as Ex. A).² The Solicitor General stated that, at the time, there was “uncertainty surrounding the legal status and legitimacy” of some of those communications. *Id.* at 2. The Solicitor General further noted the intention of the Department of State “to initiate diplomatic discussions as soon as practicable in order to clarify the position of the Government of Somalia on the immunity issue.” *Id.* at 1 (quotation marks and citation omitted).

3. The Government of Somalia has been occupied with questions of security, which has proven an obstacle to discussions regarding immunity. There have been numerous attacks targeting Somali government institutions and individuals in recent months, including, on February 21, 2014, a serious assassination attempt on the President of Somalia that involved a breach of the Presidential palace. See also Robyn Dixon, 11 Killed in Attack on Somali Presidential Compound, L.A. Times, Feb. 21, 2014, available at <http://articles.latimes.com/2014/feb/21/world/la-fg-wn-somalia-presidential-compound-attack-20140221>. The Department

² The communications described by the Solicitor General concerned both the defendant in this matter and the defendant in *Samantar*.

of State intended to discuss the immunity matter with the Government of Somalia in late January 2014, but such discussion was preempted in light of the need to discuss urgent security matters. A planned discussion of the immunity matter in Somalia in February 2014 likewise was cancelled when Department of State travel into Somalia was put on hold on account of the security situation there.

4. At present, the United States does not have an ambassador to or embassy in Somalia; it is represented instead by a Special Representative for Somalia who is based in the U.S. Embassy in Nairobi. Discussions that have occurred between the United States and Somalia have been held in third countries, or in the Mogadishu International Airport compound.

5. In April 2014, the Department of State has continued to engage with the Government of Somalia concerning this matter, and seeks to begin substantive discussions concerning the immunity of the defendant as soon as practicable.

Accordingly, the United States has not formed views as to the defendant's claim of immunity in this matter at this time. We appreciate the substantial time the Court has already afforded the United States to express its views, and regret any delay to the Court and to the parties.

Dated: April 24, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2014, I electronically filed the foregoing Statement of Interest Submitted by the United States of America with the Clerk of the Court using the ECF system, which will make the filing available for viewing and downloading and which will send notification of the filing to the following:

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