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At the Supreme Court
Sitting as the High Court of Justice

HCJ 289/09

_____ **'Attar and 15 others**

Represented by attorneys Sigi Ben-Ari
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The Petitioners

- Versus -

The Israel Defence Forces et al
Represented by the State Attorneys,
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The Respondents

Respondent's Reply

Pursuant to the decision of the honorable Judge A. Gronis dated 9 January 2009, the respondents hereby respectfully file their reply to the petition.

1. The petition is concerned with the petitioner's demand that the respondents deliver the information which is in their possession as to the whereabouts of petitioners 1-15, whom it has been alleged were detained by IDF Forces over the course of the fighting in Gaza.
2. From an investigation undertaken by the respondents it emerged that out of the 15 petitioners, eight Palestinians have been identified as having been apprehended in the course of battle operations in the Gaza Strip. The identified persons are petitioners, 1, 2, 3, 4, 5, 7, 11, and 12.

After filing the petition, counsel for the petitioners delivered an updated list of the identity document number of petitioners 9-15, which did not appear in the

original petition. The investigation revealed that to all appearances petitioner 14 was also apprehended by IDF Forces, even if the name in possession of the respondents differs slightly from that of the petition. The identification of petitioner 14 is based on his identity documents number and also on his first name and on his surname.

3. All the petitioners, who have been identified, aside from petitioner 5, were released and sent back to the Gaza Strip over the course of the weekend. They are thus no longer in the custody of the respondents.
4. Petitioner 5 is being held by virtue of the Temporary Imprisonment provisions that were issued in his case pursuant to the authority vested in the respondents per section 3 of the Imprisonment of Unlawful Combatants Law, 5762-2002, petitioner 5 is currently being held in an Israel Prison Services facility in Ketziot.
5. All the aforementioned information is based on an investigation that was carried out amongst prisoners in Israel.
6. It should be clarified that so long as battle operations continue in the Gaza Strip it is likely that more Palestinian residents will be apprehended by the IDF Forces. The names of those who shall be apprehended shall be delivered to the Control Center for Prisons of the military police. Efforts shall be made to deliver the names to the Detentions Control Center no later than 48 hours from the time the prisoners are transferred to Israel. It shall be possible to approach the Detentions Control Center in the matters of specific prisoners pursuant to the existing procedures of the detention Control Center.

It should also be clarified that this rule shall not apply to someone upon whom a court conviction has been issued under the provisions of section 36 of the Criminal Procedure (Enforcement Authorities – Arrests) Law 5756-1996. It shall be emphasized that as of today this authority has not been exercised with respect to Palestinians who were apprehended in the Gaza Strip over the course of battle operations.

7. Finally it should be noted that some of the Palestinian residents were caught without an identity number. Therefore the information relating to them is based upon the initial investigation of them that was arranged for them, in the course of which they most likely tried to mislead the respondents by providing false personal information. Therefore it is possible that some of the information relating to the Palestinians, which is in Israel's possession, is incomplete or is misleading.
8. In conclusion, since the respondents delivered all the particulars that were known to them with respect to the petitioners, and since an arrangement has been put in place for receiving details in future cases, the respondents are of the opinion that the petition overreached and should thus be dismissed.

Therefore the honorable court is requested to dismiss the petition.

Today: 11 January 2009

15 Tevet 5769

(signed)

Avi Licht

Senior Deputy to the State Attorney