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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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HAMDI ET AL. *v.* RUMSFELD, SECRETARY OF
DEFENSE, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FOURTH CIRCUIT

No. 03–6696. Argued April 28, 2004—Decided June 28, 2004

After Congress passed a resolution—the Authorization for Use of Military Force (AUMF)—empowering the President to “use all necessary and appropriate force” against “nations, organizations, or persons” that he determines “planned, authorized, committed, or aided” in the September 11, 2001, al Qaeda terrorist attacks, the President ordered the Armed Forces to Afghanistan to subdue al Qaeda and quell the supporting Taliban regime. Petitioner Hamdi, an American citizen whom the Government has classified as an “enemy combatant” for allegedly taking up arms with the Taliban during the conflict, was captured in Afghanistan and presently is detained at a naval brig in Charleston, S. C. Hamdi’s father filed this habeas petition on his behalf under 28 U. S. C. §2241, alleging, among other things, that the Government holds his son in violation of the Fifth and Fourteenth Amendments. Although the petition did not elaborate on the factual circumstances of Hamdi’s capture and detention, his father has asserted in other documents in the record that Hamdi went to Afghanistan to do “relief work” less than two months before September 11 and could not have received military training. The Government attached to its response to the petition a declaration from Michael Mobbs (Mobbs Declaration), a Defense Department official. The Mobbs Declaration alleges various details regarding Hamdi’s trip to Afghanistan, his affiliation there with a Taliban unit during a time when the Taliban was battling U. S. allies, and his subsequent surrender of an assault rifle. The District Court found that the Mobbs Declaration, standing alone, did not support Hamdi’s detention and ordered the Government to turn over numerous materials for *in camera* review. The Fourth Circuit reversed, stressing that, because it

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was undisputed that Hamdi was captured in an active combat zone, no factual inquiry or evidentiary hearing allowing Hamdi to be heard or to rebut the Government’s assertions was necessary or proper. Concluding that the factual averments in the Mobbs Declaration, if accurate, provided a sufficient basis upon which to conclude that the President had constitutionally detained Hamdi, the court ordered the habeas petition dismissed. The appeals court held that, assuming that express congressional authorization of the detention was required by 18 U. S. C. §4001(a)—which provides that “[n]o citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress”—the AUMF’s “necessary and appropriate force” language provided the authorization for Hamdi’s detention. It also concluded that Hamdi is entitled only to a limited judicial inquiry into his detention’s legality under the war powers of the political branches, and not to a searching review of the factual determinations underlying his seizure.

Held: The judgment is vacated, and the case is remanded.

JUSTICE O’CONNOR, joined by THE CHIEF JUSTICE, JUSTICE KENNEDY, and JUSTICE BREYER, concluded that although Congress authorized the detention of combatants in the narrow circumstances alleged in this case, due process demands that a citizen held in the United States as an enemy combatant be given a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker. Pp. 14–15.

JUSTICE SOUTER, joined by JUSTICE GINSBURG, concluded that Hamdi’s detention is unauthorized, but joined with the plurality to conclude that on remand Hamdi should have a meaningful opportunity to offer evidence that he is not an enemy combatant. Pp. 2–3, 15.

O’CONNOR, J., announced the judgment of the Court and delivered an opinion, in which REHNQUIST, C. J., and KENNEDY and BREYER, JJ., joined. SOUTER, J., filed an opinion concurring in part, dissenting in part, and concurring in the judgment, in which GINSBURG, J., joined. SCALIA, J., filed a dissenting opinion, in which STEVENS, J., joined. THOMAS, J., filed a dissenting opinion.