

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

)	
IN RE:)	Misc. No. 08-0442 (TFH)
GUANTANAMO BAY)	
DETAINEE LITIGATION)	Civil Action No. 04-1254 (HHK)
)	

**PETITIONERS' MOTION FOR
A STATUS CONFERENCE TO CONSIDER SCHEDULING ISSUES**

Petitioners Othman Abdulraheem Mohammad (ISN #27), Farouk Ali Ahmed Saif (ISN #32), Abdulmalik Abdulwahhab Al-Rahabi (ISN #37), Majid Mahmoud Ahmed (ISN #41), Makhtar Yahia Naji Al-Wrafie (ISN #117), Adnan Farhan Abdul Latif (ISN #156), Adil Saeed el Haj Obaid (ISN #165), Yasein Khasem Mohammad Esmail (ISN #522), and Mohamed Mohamed Hassan Odaini (ISN #681) respectfully move for a status conference to consider scheduling issues.¹

On November 6, 2008, Judge Hogan entered a Case Management Order applicable to Guantanamo Bay detainee litigation, including this case. *See* Dkt. 940 in 08-mc-0442 (“CMO”). The CMO authorizes this Court to make changes appropriate for this case. The Government moved for clarification and reconsideration of the CMO on November 20, 2008. On November 21, 2008, Judge Hogan entered an Order staying various due dates imposed by the CMO pending resolution of the Government’s motion.

Petitioners propose that the Court schedule a status conference for this case to consider scheduling issues. The agenda for the status conference should include whether changes should be made to the CMO’s timing for discovery, disclosure of exculpatory

¹ Pursuant to Local Rule 7(m), counsel for Petitioners contacted counsel for the Government, who indicated that the Government will oppose this motion.

information by the Government, and the filing of traverses. Petitioners believe that some alterations to the CMO schedule need to be made for this case; for instance, traverses should be not be due until a reasonable time after the Government has provided petitioners both with unclassified versions of the amended returns as well as with all exculpatory information.² Petitioners respectfully request a status conference at the Court's earliest convenience to address scheduling issues and any other pertinent matters.

Respectfully submitted,

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² On November 20, the Government filed a "Notice Pertaining to Production of Exculpatory Information," purportedly pursuant to Paragraph I.D.1 of the CMO, which required that the Government file within 14 days a "notice certifying either that it has disclosed the exculpatory evidence or that it does not possess any exculpatory evidence." Under the CMO, the filing of a notice under I.E.1 triggers the filing of traverses within the 14 days. The "notice" filed by the Government, however, is defective. The Government admits in its motion to reconsider filed with Judge Hogan that it has not made the required effort to canvas relevant agencies for reasonably available exculpatory evidence (instead the motion argues that the Government should not be required to do so), and the notice itself states that the Government has provided only some of petitioners' own exculpatory statements. In addition, Judge Hogan's Order of November 21, 2008, while not specifically addressing the CMO paragraph concerning traverses, stayed the date for filing exculpatory evidence notices, and stayed various other dates pending resolution of the Government's motion to reconsider. A call to Judge Hogan's Chambers by one of the other habeas counsel also indicated that the November 21 order stays the filing of traverses. Accordingly, petitioners believe that the time set by the CMO for filing traverses in this case has not yet begun to run.

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