

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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IN RE:	:	
	:	
GUANTÁNAMO BAY	:	Misc. No. 08-442 (TFH)
DETAINEE LITIGATION	:	
	:	
_____	X	
	:	
OTHMAN, <i>et al.</i> .	:	
	:	
	:	
Petitioners,	:	
	:	
v.	:	Civil Action No. 05-2088 (RWR)
	:	
BUSH, <i>et al.</i> ,	:	
	:	
	:	
Respondents.	:	
	:	
_____	X	

UNOPPOSED MOTION TO STAY PETITION FOR WRIT OF HABEAS CORPUS

Pursuant to this Court’s Minute Order dated November 28, 2008, Petitioner Khaled Abd Elgabar Mohammed Othman, by his undersigned counsel, respectfully moves for a stay of his petition for writ of habeas corpus. In support of their Motion, counsel state as follows:

1. The above-captioned petition for a writ of habeas corpus was filed in this Court on October 25, 2005.
2. In 2006, Petitioner’s counsel met with Petitioner Khaled Abd Elgabar Mohammed Othman at Guantanamo. As described in the accompanying Declaration of Pardiss Kebriaei (attached as Exhibit A), Petitioner’s counsel have been unable to meet with Petitioner Othman since that initial meeting, despite making multiple attempts to visit Petitioner at the base since the initial meeting, and have not received any correspondence from Petitioner.

3. The lack of communication between Petitioner Othman and his counsel prevents counsel from proceeding on his petition for writ of habeas corpus at this time.

4. Petitioner's counsel will continue to attempt to reestablish communications with Petitioner Othman, and will notify the Court if those attempts prove successful.

5. Under these circumstances, good cause exists to stay Petitioner Othman's petition for writ of habeas corpus.

6. Petitioner's counsel has conferred with Respondents' counsel, who consent to the relief requested herein.

WHEREFORE, counsel for Petitioner Othman respectfully requests that the Court enter an Order that:

- (1) The above-captioned petition for a writ of habeas corpus shall be stayed;
- (2) The parties' obligations under this Court's November 6, 2008 Case Management Order shall be suspended with respect to this Petitioner unless and until the stay is lifted by the Court;
- (3) Either counsel for Petitioner or counsel for Respondents may move to lift the stay upon notice to counsel for the opposing party;
- (4) The terms and effect of this Court's September 11, 2008 Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantánamo Bay, Cuba (the "Protective Order") shall remain in effect;
- (5) The terms and effect of this Court's July 11, 2008 Order (Dkt. 41), requiring Respondents to provide Petitioner's counsel and the Court with thirty day's advance notice prior

to any intended removal or transfer of a prisoner from Guantánamo Bay, Cuba shall remain in effect; and

(6) The December 5, 2008 status hearing in the above-captioned matter is vacated.

A proposed order to this effect is attached.

Respectfully submitted,

s/sdk

Shayana Kadidal (D.C. Bar No. 454248)
Gitanjali S. Gutierrez (pursuant to LCvR 83.2(g))
Pardiss Kebriaei (pursuant to LCvR 83.2(g))
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Tel: (212) 614-6438
Fax: (212) 614-6499
kadidal@ccrjustice.org

Counsel for Petitioner

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	:
	:
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	:
_____	X

[PROPOSED] ORDER

Upon consideration of the Unopposed Motion to Stay Petition for Writ of Habeas Corpus of Petitioner Khaled Abd Elgabar Mohammed Othman, it is hereby **ORDERED** on this ____ day of December, 2008, that:

- (1) The above-captioned petition for a writ of habeas corpus shall be stayed;
- (2) The parties' obligations under this Court's November 6, 2008 Case Management Order shall be suspended with respect to this Petitioner unless and until the stay is lifted by the Court;
- (3) Either counsel for Petitioners or counsel for Respondents may move to lift the stay upon notice to counsel for the opposing party;

(4) The terms and effect of this Court's September 11, 2008 Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantánamo Bay, Cuba (the "Protective Order") shall remain in effect;

(5) The terms and effect of this Court's July 11, 2008 Order (Dkt. 41), requiring Respondents to provide Petitioners' counsel and the Court with thirty day's advance notice prior to any intended removal or transfer of a prisoner from Guantánamo Bay, Cuba shall remain in effect; and

(6) The December 5, 2008 status hearing in the above-captioned matter is vacated.

Dated: December ____, 2008

HON. RICHARD W. ROBERTS
UNITED STATES DISTRICT JUDGE

EXHIBIT A

Declaration of Pardiss Kebriaei

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	:	
_____	X	

DECLARATION OF PARDISS KEBRIA EI

The undersigned, Pardiss Kebriaei, attorney at law, declares and states as follows:

1. I am one of the attorneys who has represented Petitioner Khaled Abd Elgabar Mohammed Othman in the above-captioned matter.

2. The above-captioned petition for a writ of habeas corpus was filed in this Court on October 25, 2005 by attorneys with the law firm of Blank Rome LLP. Gitanjali S. Gutierrez, an attorney with the Center for Constitutional Rights, made an appearance on behalf of Petitioner on February 2, 2006. (*See* Dkt. 14) Blank Rome LLP eventually withdrew (*see* Dkt. 27, filed May 3, 2007) and the Center for Constitutional Rights assumed sole responsibility for the representation of petitioner.

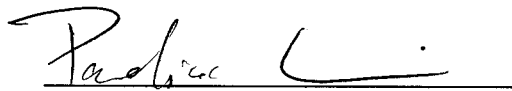
3. My colleague Gitanjali S. Gutierrez met with Petitioner Othman at Guantanamo in 2006. Since that initial successful visit, Ms. Gutierrez and I have attempted to meet with Petitioner several times during our regular visits to Guantanamo. Ms. Gutierrez last attempted to meet Petitioner on December 10, 2007, and I subsequently made attempts on July 28, 2008 and November 12, 2008. On each such occasion, I was informed that Petitioner had refused the meeting. On each such occasion, I was allowed to write a short note to Petitioner, translated into Arabic by our translator, describing who we were and the purpose of our visit. However, on all of these occasions, neither I nor our translators were allowed to meet directly with petitioner in order to confirm his wishes or his understanding regarding the purpose or nature of the meeting. On each occasion, after sending in the written note, we were informed that Petitioner had refused to accept the note.

5. Our office has sent correspondence to Petitioner, updating him on the status of the litigation. To my knowledge none of this correspondence has been refused or returned.

6. At this time, I have no way of assessing Petitioner's competence or, alternately, his desire to pursue his petition further.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 1, 2008.


Pardiss Kebriaei