

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE :

GUANTÁNAMO BAY
DETAINEE LITIGATION

Misc. No. 08-442 (TFH)

ABDULLAH WAZIR ZADRAN, et al.
Petitioners/Plaintiffs,

Civil No. 05-CV-2367 (RWR)

v.

GEORGE W. BUSH, et al.,
Respondents/Defendants.

PETITIONERS’ MOTION ON CONSENT TO COMPLETE RECORD FOR APPEAL

Petitioner Mohammad Nabi Omari and Petitioner Mohammad Zahir (collectively “Petitioners”), by and through their undersigned counsel, respectfully submit this Motion on Consent to Complete Record for Appeal on Respondents’ Motions for Leave to File Amended Factual Return, and state as follows:

On or about October 24, 2008, Respondents filed a Motion for Leave to File Amended Factual Return for Petitioner Omari (Misc. Dkt. No. 802), and on October 29, 2008 filed a substantially identical Motion with respect to Petitioner Zahir (Misc. Dkt. No. 857) (collectively the “Motions to Amend”).

On November 6, 2008, prior to the date that Petitioners’ response to the Motions to Amend were due, Petitioners filed a Motion on Consent for Extension of Time to Respond to Responds’ Motions for Leave to File Amended Factual Return (Misc. Dkt. No. 942).

On November 7, 2008, this Court issued an Order (Misc. Dkt. No. 952) (the “November 7 Order”) granting all Motions for Leave to Amend currently pending before it, including the Motions to Amend relating to Petitioners Omari and Zahir, and further ordering that the government is no longer required to move for leave to amend factual returns that were filed before July 11, 2008. The November 7 Order was entered before Petitioners Omari or Zahir had the opportunity to file their opposition to the Motions to Amend relating to their returns.

On November 8, 2008 this Court entered a minute order denying as moot the Motion on Consent for Extension of Time, in light of this Court’s November 7 Order.

Because the November 7 Order was entered before Petitioners had the opportunity to submit their opposition to the Motions to Amend, Petitioners believe that, upon any appeal that may arise in this matter, they would be permitted to make any argument they could have made before this Court as to why the Motions to Amend should be denied. However, in an abundance of caution, Petitioners hereby seek leave to file a Memorandum of Law in Opposition to Respondents’ Motions for Leave to File Amended Factual Returns (the “Opposition”), in the form annexed hereto as Exhibit A, to complete the record for purposes of appeal.

In accordance with Local Civil Rule 7(m), Juliet Sarkessian of our office spoke with Respondents’ counsel, Terry Henry, concerning this motion. Mr. Henry stated that while Respondents object to the substantive relief sought by Petitioners’ Opposition — denial of Respondents’ Motions to Amend — Respondents do not object to this motion to allow Petitioners to file their Opposition solely for purposes of completing the record for appeal.

Wherefore, Petitioners respectfully request that the Court grant this Motion and permit them to file the attached Opposition for purposes of completing the record for appeal. A proposed order is attached.

Respectfully submitted,

Dated: December 2, 2008

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of December, 2008, I caused the foregoing Petitioners' Motion on Consent to Complete Record for Appeal to be filed with the Court and served via e-mail on counsel for Respondents as follows:

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