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

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IN RE:)	
)	Misc. No. 08-0442 (TFH)
GUANTANAMO BAY)	
DETAINEE LITIGATION)	Civil Action No. 05-0763 (JDB)
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STATUS REPORT

Pursuant to the Scheduling Order issued by Judge Hogan on July 11, 2008, counsel for Petitioner Adel Ben Hamlily hereby files this Status Report regarding *Hamlily, et al. v. Bush, et al.*, Civil Action No. 05-0763 (JDB).

Brief Procedural History

1. Petitioner Hamlily, an Algerian citizen, was taken into custody in Pakistan around June 2003 and held there in the custody of the United States or Pakistan. He was then transferred to the custody of the United States in Kabul, Afghanistan, where he was held for approximately ten months, and then to a prison in Bagram, Afghanistan, where he was held for an additional three or four months.¹ Since September 2004, he has been held at the United States Naval Station at Guantánamo Bay, Cuba (“Guantánamo”).

¹ Certain factual information learned from Mr. Hamlily has been submitted to the privilege review team and deemed “unclassified” pursuant to the procedures under the Protective Order entered in this case on April 21, 2005. All factual information in this memorandum either has been cleared by the privilege review team or is publicly available.

2. In November 2004, a Combatant Status Review Tribunal (“CSRT”) at Guantánamo ruled that Petitioner was “properly designated as an enemy combatant.”
3. Upon information and belief, Petitioner is not considered a “high-value detainee.” Upon information and belief, Petitioner has not been cleared for release. Upon information and belief, Petitioner has not appeared and is not scheduled to appear for any proceeding before a Military Commission.
4. On April 15, 2005, through his next friend Shaker Aamer, Petitioner filed a Petition for Writ of Habeas Corpus in this District, challenging his unlawful detention at Guantánamo and his designation as an “enemy combatant.” The case was converted to a direct petition on October 31, 2005 (docket no. 20). The case is assigned to Judge Bates. There is no duplicate petition filed on behalf of this Petitioner.
5. On June 7, 2005, the Court entered an order (docket no. 10) which stayed the action, including Respondents’ obligation to show cause why the petition should not be granted, pending the disposition of the appeals in *In re Guantanamo Detainee Cases*, 355 F. Supp. 2d 443 (D.D.C. 2005), and *Khalid v. Bush*, 355 F. Supp. 2d 311 (D.D.C. 2005).
6. On April 19, 2007, Respondents filed an omnibus Motion to Dismiss in most pending habeas actions, including this one (docket no. 39), asserting that the Court lacked jurisdiction to hear claims of alien detainees held as enemy combatants in Guantánamo, pursuant to the Military Commissions Act of 2006 and the Detainee Treatment Act of

2005. Although the Court has not yet ruled on this motion, the Supreme Court's decision in *Boumediene v. Bush*, ___S. Ct. ___, Nos. 06-1195, 06-1196, 2008 WL 2369628 (S. Ct. June 12, 2008), leaves no doubt that this Court has jurisdiction over Petitioner's habeas petition.

7. On December 15, 2006, Petitioner filed a Motion to Order Respondents to Provide a Factual Return. Respondents opposed that motion and it has been fully briefed. *See* docket entries nos. 34, 36 and 37. The Court has not yet ruled on that motion.
8. On June 18, 2007, Petitioner filed a Petition for Immediate Release and Other Relief Under the Detainee Treatment Act of 2005 in the United States Court of Appeals for the District of Columbia Circuit, *Hamlily v. Gates, et al.*, No. 07-1225 (the "DTA Action"). On June 19, 2008, Respondents filed a Motion to Hold in Abeyance or in the Alternative to Dismiss Without Prejudice. This motion has been fully briefed and is awaiting resolution by the Court of Appeals.
9. On July 1, 2008, Petitioner filed a Motion to Lift Stay and Set a Status Conference (docket no. 59). The motion to lift the stay was unopposed, but Respondents objected to setting a status conference.
10. On July 1, 2008, Petitioner filed an Amended Petition for Writ of Habeas Corpus (docket no. 59).

11. Respondents have not filed a factual return in this case. Respondents have produced the documents listed in the Certified Index to the Record in the DTA Action, which consists of the CSRT Record.
12. For the past year, Mr. Hamlily has been held in solitary confinement in the maximum-security facility of Camp V, during which time his mental health has deteriorated to a critical point. On February 20, 2008, Petitioner's counsel sent a letter to the Department of Defense and the Department of Justice requesting that Petitioner be moved from Camp V to Camp IV, to ameliorate his rapidly deteriorating mental condition. Petitioner's counsel have made repeated inquiries in writing to the Department of Justice for an update on the status of the request. Counsel have received no response other than statements that the request has been forwarded to the Department of Defense for consideration.

Proposed Schedule

13. Petitioner recognizes that the Court's July 11, 2008 Order contemplated the filing of factual returns on a rolling basis beginning August 29, 2008. Given Petitioner's mental health status and given that Respondents have already provided the CSRT Record in the DTA Action, Petitioner's counsel proposes that the Court order Respondents to file a factual return within 30 days instead. Petitioner's traverse would be due 30 days thereafter and a hearing within 30 days after filing of the traverse.

14. Because the Petitioner's case turns on unique facts, Petitioner's counsel does not believe it is suitable for wholesale consolidation with other cases. However, counsel is amenable to coordination for the limited purpose of consolidated briefing on the introduction of evidence provided through the DTA Action.

Dated: July 18, 2008

Respectfully submitted,

Counsel for Petitioner:

/s/ Paul A. Leder

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CERTIFICATE OF SERVICE

I hereby certify that I am over the age of eighteen years, and am not a party to this action.

I further certify that on July 18, 2008, I served the foregoing Status Report through the Court's electronic notification system to all registered counsel.

/s/ Sarah Swanz
Sarah Swanz