

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

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)	Misc. No. 08-442 (TFH)
IN RE:)	
GUANTANAMO BAY)	Civil Action No. 05-CV-2378 (JDB)
DETAINEE LITIGATION)	
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**MOTION TO FILE UNCLASSIFIED RETURN OUT OF TIME
AND NOTICE OF FILING PROTECTED INFORMATION**

RESPONDENTS RESPECTFULLY MOVE for relief from this Court's Order dated November 24, 2008 entered in *Hamlily v. Bush*, Civ. No. 05-0763 (JDB); *Zaid v. Bush*, Civ. No. 05-1646 (JDB); and *al-Ghizzawi v. Bush*, Civ. No. 05-2378 (JDB), for the limited purpose of filing unclassified returns in those three matters on December 11, 2008, two days after the December 9, 2008, deadline set in that Order.

The first day's extension is requested because, despite Respondents' diligent efforts to coordinate with all necessary government agencies and make the necessary final redactions in time, the Government's delivery to the courthouse on December 9 in these matters regrettably arrived minutes after the Clerk's Office had closed. Unclassified returns in these matters were nevertheless completed and served via e-mail on the respective Petitioners' counsel on December 9. Undersigned counsel sought consent from Petitioner's counsel in *Al-Ghizzawi v. Bush*, Civ. No. 05-2378 (JDB) via e-mail on December 9, 2008, to file the unclassified return one day out of time, and was informed that Petitioner's counsel did not oppose that extension. Undersigned counsel again sought consent from Petitioner's counsel in *Al-Ghizzawi v. Bush*, Civ. No. 05-2378

(JDB) via e-mail on December 10, 2008, to file the unclassified return a second day out of time, and was informed that Petitioner's counsel did not oppose the additional extension.

The second day's extension is requested because, despite Respondent's delivery of these unclassified returns to the Clerk's office during its business hours on December 10, the Clerk's office rejected the filings due to their requirements for Guantanamo habeas filings that Respondents' counsel was not previously aware of, and the government was unable to correct the filings in time to submit them again before the Clerk's office closed that afternoon. Government counsel has conferred by telephone this morning, December 11, with representatives of the Clerk's office to clarify the requirements for filing Guantanamo habeas papers under seal. The Government has made the necessary arrangements for this filing and will make the necessary arrangements for subsequent filings under seal of unclassified returns in other Guantanamo cases.

NOTICE ALSO IS HEREBY GIVEN that, pursuant to the protective order entered herein by the Court's Order of September 11, 2008, and pursuant to the Court's Order entered on November 24, 2008, the respondents have filed with the Court the unclassified factual return for petitioner Abdul al-Ghizzawi under seal. The respondents seek to have this material designated as "protected information." In accordance with paragraph 49 of the Court's Order of September 11, 2008 and the Court's Order of November 24, 2008, this submission was filed under seal pursuant to Local Civil Rule 5.1(j). As required by the protective order, respondents have disclosed the protected information to petitioners' counsel and are conferring with counsel in an attempt to reach

an agreement regarding the designation of the information prior to filing a motion with the Court; following the outcome of that conferral, respondents will file an appropriate motion with the Court to have the information designated as “protected.” Respondents, however, do not object to petitioner’s counsel sharing the submission with the petitioner-detainee in this case.

Dated: December 11, 2008

Respectfully submitted,

GREGORY G. KATSAS
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Deputy Assistant Attorney General

/s/ Steve R. Matheny

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ORDER

For good cause shown, Respondents' Motion to File Unclassified Return Out of Time is hereby granted,

So Ordered, this ____ day of December, 2008.

John D. Bates
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2008, I caused the foregoing Respondents' *Motion to File Unclassified Return Out of Time and Notice of Filing Protected Information* to be served on counsel for the Petitioner by electronic means through the Court's Case Management/Electronic Case File system.

I also hereby certify that on December 9, 2008, I caused the unclassified factual return for Petitioner Abdul al-Ghizzawi attached to Respondents' *Motion to File Unclassified Return Out of Time and Notice of Filing Protected Information* to be served on counsel for Petitioner al-Ghizzawi via e-mail.

/s/ Steve R. Matheny
STEVE R. MATHENY