

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE:)	
)	Misc. No. 08-442 (TFH)
)	
GUANTANAMO BAY)	Civil No. 05-999 (RBW)
DETAINEE LITIGATION)	
)	
)	

CONSENT MOTION TO STAY PROCEEDINGS

Respondents, with the consent of counsel for Petitioner Asim Ben Thabit al-Khalaqi (ISN 152, “Petitioner”), hereby move the Court to stay all habeas proceedings for this Petitioner.

1. Respondents previously notified Petitioner’s counsel that the Department of Defense has approved Petitioner for transfer or release from United States custody at the Naval Base at Guantanamo Bay. Respondents have been working to make the necessary and appropriate diplomatic arrangements to relinquish custody over Petitioner. Therefore, at this time, the parties consent to stay all habeas proceedings for Petitioner. Furthermore, on or before April 17, 2009, the parties will file a status report with the Court regarding their respective positions on the continuation of the stay and the status of the case at that time.

2. The parties also agree that the obligations set forth in the Case Management Order of November 6, 2008, see 08-MC-442 (Hogan, J.) (amended on December 16, 2008), should be suspended until such time as the stay is lifted. The parties further agree that either side may move to lift the stay at any time. The parties agree that the protective order entered on September 11, 2008 and the 30-day notice of transfer order entered in these matters remain in effect.

3. The Supreme Court has explicitly approved the stay-and-abey procedure in the context of federal habeas corpus proceedings. See Rhines v. Weber, 544 U.S. 269 (2005).

WHEREFORE, Respondents, with the consent of Petitioner, respectfully requests that the Court grant this motion and stay this habeas proceeding.

Dated: December 17, 2008

Respectfully submitted,

GREGORY G. KATSAS
Assistant Attorney General

JOHN C. O'QUINN
Deputy Assistant Attorney General

/s/ Joseph C. Folio III

JOSEPH H. HUNT (D.C. Bar No. 431134)
VINCENT M. GARVEY (D.C. Bar No. 127191)

TERRY M. HENRY

ANDREW I. WARDEN

JOSEPH C. FOLIO III

Attorneys

United States Department of Justice

Civil Division, Federal Programs Branch

20 Massachusetts Avenue, NW

Washington, DC 20530

Tel: 202.305.4968

Attorneys for the Respondent