

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE:)	
)	
GUANTANAMO BAY)	Misc. No. 08-442 (TFH)
DETAINEE LITIGATION)	
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HANI SALEH RASHID ABDULLAH, <i>et al.</i> ,)	
)	
<i>Petitioners,</i>)	
)	
v.)	No. 05-0023 (RWR)
)	
GEORGE W. BUSH, <i>et al.</i> ,)	
)	
<i>Respondents.</i>)	
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**MOTION TO COMPEL AND FOR
EXPEDITED CONSIDERATION**

On November 7, 2008, pursuant to section I.E.1 of the case management order entered by Judge Hogan on November 7, 2008, Petitioner Hani Saleh Rashid Abdullah sent the attached discovery request to counsel for the government. The request closely tracked the case management order, clarifying only that Abdullah was seeking discovery beyond the Department of Defense. *See* Exhibit A. On November 18, 2008, the government filed a motion, *inter alia*, to have its discovery obligations under section I.E.1 narrowed. This Court on November 19, 2008 noted the existence of the government’s motion, but instructed the government to continue to comply with section I.E of the case management

order. (DE 149). On November 21, 2008, Judge Hogan suspended section I.E of the case management order, but in doing so, he warned the government:

Upon resolution of the motion, however, the Court expects the parties to be prepared to proceed immediately to fulfill the obligations required by paragraphs I.C, I.D, I.E, I.F, II.B, II.C. In other words, the parties should not view a stay of the due dates as license to halt all efforts to prepare the materials necessary to comply with the Case Management Order.

By his order of December 16, 2008, Judge Hogan (a) lifted his suspension of section I.E of the case management order and (b) modified the scope of discovery under I.E.1 of the case management order. Thereafter, on December 19, 2008, counsel for Abdullah contacted counsel for the government to find out when the government intended to produce the documents that were subject to discovery, under the request as amended. The response: never. Instead, the government seeks a completely new request, and to have the clock start completely anew. This position defies logic, and the orders of both this Court and Judge Hogan.

The government's discovery responses are, by Abdullah's count, already overdue. The government is unwilling to provide documents in accordance with the narrowed obligation without a new request. While it might seem practical to just submit a new request and wait an additional 17 days, the fact that the government is willing to completely disregard the prior orders, and, as

indicated by its other submissions, has provided no basis for the conclusion that it will fully comply with a new request, leave Abdullah without reason to surrender his rights under those orders.¹

The government has found one excuse after another to delay each and every phase of this litigation, all the while holding Abdullah in solitary confinement, despite the directly applicable provisions of the Geneva Conventions. To prevent yet more self-help on the schedule, Abdullah asks the Court to order the government to respond to this motion in five days time. Its position, that despite the clear import of Judge Hogan's orders it may ignore all prior requests, should be easy enough to express.

Counsel for Abdullah consulted with counsel for the government.

The government opposes this motion.

¹ Abdullah is submitting today a new discovery request covering all documents that are discoverable under section I.E.1 of the case management order as revised. He will withdraw this motion if the government agrees to comply in full within a reasonable time.

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Respectfully submitted,

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