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

<b>IN RE:</b>	)	
	)	
<b>GUANTÁNAMO BAY DETAINEE LITIGATION</b>	)	<b>Misc. No. 08-442 (TFH)</b>
	)	
	)	<b>Civil Action No. 05-CV-2384 (RWR)</b>
	)	

**STATUS REPORT REGARDING SAID V. BUSH**

Pursuant to the Court's Order of July 11, 2008, Petitioners file this status report regarding their habeas corpus proceedings.

**Pleadings**

1. Respondents have held Petitioners Al Qahtani and Zahrani at Guantánamo Bay unlawfully and without charge for more than six years.
  
2. Petitioner Saad Al Qahtani was one of the first prisoners to be taken to Guantánamo; he arrived there on January 16, 2002. Petitioner Mohammed Zahrani arrived at Guantánamo in mid 2002. Respondents claim the right to continue to hold the Petitioners indefinitely without charge, and Respondents have not indicated any intention to release them or to transfer them to another country.
  
3. On December 13, 2005, Petitioners Al Qahtani and Zahrani filed a petition for writ of *habeas corpus*. (Dkt. 1.)<sup>1</sup>

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<sup>1</sup> Petitioners Al Qahtani and Zahrani were originally joined in the *Said v. Bush* case with three other Guantánamo prisoners – Salim Said, Bandar Al Jaabir, and Anwar Handan Al Shimmiri – who have since been released from United States custody and transferred to Saudi Arabia. *See* Dkt. 61 (notice of transfer of Al Shimmiri, 12/20/2006); Dkt. 73 (notice of transfer of Al Jaabir, 7/17/2007); Dkt. 75 (notice of transfer of Said, 9/7/2007). The case was initiated on behalf of the five petitioners by their “next friends.”

4. On May 23, 2006, Judge Richard W. Roberts ordered Respondents to file and make available to Petitioners' counsel the factual returns "for each of the five detained petitioners who are identifiable and are real parties in interest in this action." (Dkt. 24.)

5. On June 2, 2006, Respondents filed a factual return for Petitioner Al Qahtani. (Dkt. 30.) The classified version of this factual return is redacted and incomplete. On June 3, 2006, Petitioners' counsel sent a letter to Respondents' counsel identifying omitted documents that were referenced and apparently relied upon in the factual return. Respondents' counsel did not respond to the letter.

6. On July 18, 2008, Petitioner Al Qahtani filed with the Court Security Office a traverse in response to Respondents' factual return. As a result, the issues are now joined with respect to Petitioner Al Qahtani's petition for a writ of *habeas corpus*.

7. Respondents have not filed any factual return for Petitioner Zahrani.

#### **Stay and Administrative Closure**

8. On July 2, 2007, Judge Roberts stayed and administratively closed the *Said v. Bush* case pending the disposition of *Boumediene v. Bush* and *Al Odah v. United States*, and directed the parties to move either to reopen or dismiss the case within ten days of the Supreme Court's disposition of those cases. (Minute Order, July 2, 2007.) On June 12, 2008, the Supreme Court ruled in *Boumediene v. Bush* that "[t]he detainees . . . are entitled to a prompt *habeas corpus* hearing." 553 U.S. \_\_\_, slip op. (majority) at 66 (June 12, 2008).

9. On June 17, 2008, Petitioners Al Qahtani and Zahrani submitted an emergency motion requesting that the Court lift the stay and promptly schedule a status conference to calendar the matter for expedited determination on the merits of the petition for a writ of *habeas corpus*. (Dkt. 95.)

10. On July 9, 2008, Judge Roberts granted Petitioners' motion to lift the stay. (Minute Order, July 9, 2008.) Judge Roberts also noted that Petitioners' request to set a scheduling conference was satisfied by Judge Thomas F. Hogan's July 2, 2008 order setting a scheduling conference for these consolidated cases. (*Id.*)

### **Transfer to Judge Hogan**

11. On July 3, 2008, Judge Roberts ordered this case transferred to Judge Hogan for coordination and management with other cases filed by prisoners at Guantánamo Bay, while retaining the case for all other purposes. (Dkt. 99.)

### **Order for Thirty Days' Notice of Transfer and Preservation of Evidence**

11. On July 25, 2006, Judge Roberts granted Petitioners' motion for preservation of evidence and Petitioner Al Qahtani's motion for thirty days' notice of transfer. (Dkt. 41.) Respondents filed an interlocutory appeal, which the U.S. Court of Appeals for the District of Columbia consolidated with *Al Gingo v. Bush*, No. 06-5191. On June 7, 2007, the Court of Appeals, *per curiam*, granted the government's motion to dismiss its own appeals for lack of subject matter jurisdiction.

### **Pending Motion**

14. There is only one pending motion in this case. On January 7, 2008, Petitioner Al Qahtani filed a motion to preserve remaining exculpatory evidence. (Dkt. 79.) The motion was fully briefed on February 19, 2008, and is ready for decision by this Court. (Dkt. 80, 81, 85, 88.)

### **Proposed Schedule**

Petitioners Al Qahtani and Zahrani propose the following schedule:

- a) Because the issues are joined and Petitioner Al Qahtani currently does not intend to seek discovery, Petitioner Al Qahtani respectfully requests that the Court schedule an evidentiary hearing on his petition at the earliest reasonable date.

- b) In light of Judge Roberts's Order of May 23, 2006 (Dkt. 24), Petitioner Zahrani respectfully requests that the Court set a reasonable deadline for Respondents to file a factual return in his case. In the event that the deadline is later than August 18, 2008, Petitioner Zahrani also requests that the Court order Respondents to produce to Petitioner's counsel the existing records of Petitioner's Combatant Status Review Tribunal and Administrative Review Board proceedings within two weeks of the Court's Order or at such other time as the Court deems reasonable.

Dated: July 18, 2008

Respectfully submitted,

/s/ David W. DeBruin

One of the Attorneys for the Petitioners  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 18, 2008, I caused the foregoing Status Report to be delivered to the below-listed counsel of record in the above-captioned matters through the CM/ECF system:

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/s/ David W. DeBruin\_\_\_\_\_