

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

ABU RAWDA, a/k/a AHMED ADNAN
AHJAM, ISN 326, *et al.*,

Petitioners,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Misc. No. 08-0442 (TFH)

Civil Action No. 05-cv-2386 (RBW)

**AFFIDAVIT OF DAVID S. MARSHALL IN SUPPORT OF MOTION FOR MORE
TIME FOR REPORTS**

STATE OF WASHINGTON)

County of King)

David Marshall, being first duly sworn upon oath, deposes and says:

Since July 2006 I have represented Abu Rawda, a/k/a Ahmed Adnan Ahjam, ISN 326, in this case.

I am a sole practitioner whose office and home are in Seattle, Washington. My representation of Abu Rawda has always been *pro bono publico*. This means, of course, that I receive no compensation whatsoever for my time on this case—about 290 hours just since the *Boumediene* decision in June. It also means that my costs—about \$10,765 so far—are unreimbursed, except to the extent that some generous friends and family have contributed to paying them.

I have represented clients in courts far from Seattle before. This case has a large complication, though, that those cases have not had: the most important evidence against my client is classified information. I may not discuss any classified information with opposing counsel other than in person. I may not participate by telephone in any hearing at which classified information will be discussed. I may not draft any document that will refer to classified information other than at the secure facility in Arlington, Virginia.

The time and expense needed to travel cross-country are great enough that I cannot do it as often as the several orders on case management entered by Judges Walton and Hogan in November and December 2008 seem to require. I am prepared to be away from my practice in Seattle for several weeks when this case goes to a merits hearing, but not also to fly frequently across the country in the months between now and then.

I do not wish to withdraw from representing Abu Rawda. I remain committed to his cause, and I have, through three visits to him at Guantanamo Bay, built a relationship with him that new counsel could not quickly replicate—even if security-cleared substitute counsel were readily at hand.

I believe it is possible for the Court to modify its requirements of me in ways that will enable me to meet them without substantially increasing the burden on the Court or the respondents. I ask the Court to move the due dates for my participation in two reports now due January 5th and 7th to January 13th, two days before the initial status hearing on January 15th. I propose to spend January 11-15 in the Washington area to accomplish these and other tasks in my representation.

The report now due January 5th is the joint statement on consolidating cases required by Judge Hogan's order of December 17th, Document 245. The respondents have proposed to me that this case be consolidated with three others. In the classified information provided me, I have seen a substantial set of facts not, to my knowledge, present in the cases with whom the respondents propose to consolidate this one—a set of facts that may be similar to the facts in other cases with which this case could instead be consolidated. Because I am in Seattle, I have not been permitted to identify that set of facts to opposing counsel (and, of course, I may not describe it here). I could, though, meet opposing counsel at their offices on January 12th, and discuss it with them there.

Rather than ask the Court to continue its due date for the filing of the joint statement on consolidation with respect to all Guantanamo habeas corpus cases, I ask the Court to excuse my participation in the statement to be filed January 5th and to permit me to file a separate statement on January 13th, after I meet with respondents' counsel on January 12th.

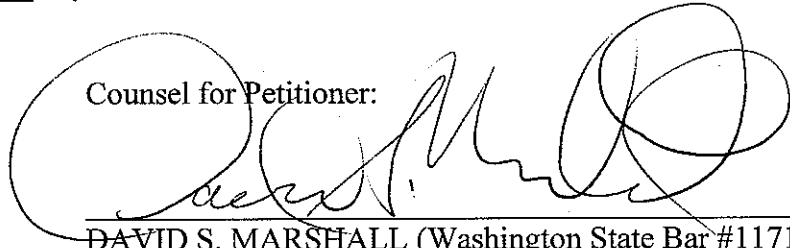
At that same January 12th meeting, respondents' counsel and I could prepare the joint status report Judge Walton has required in his order of December 19th, Document 798, before the initial status hearing set, in that same order, for January 15th. I note that in section (4) H of a different order of December 19th, Document 797, where Judge Walton has specified the general procedure for such joint status reports and initial status hearings, he has required that joint status reports precede initial status hearings by only two days, the interval I have proposed here.

I have discussed this motion with respondents' counsel James E. Cox. He has told me the respondents do not oppose it.

Accordingly, I respectfully ask the Court to grant the motion in all respects.

SIGNED this 31st day of December, 2008.

Counsel for Petitioner:



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SUBSCRIBED AND SWORN TO me before this 31st day of ~~September~~ ^{December}, 2008.



Notary Public for the State of Washington
Commission Expires: 2-19-11

ALAN L. RUDER
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES
02-19-11