

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

IN RE:

GUANTANAMO BAY
DETAINEE LITIGATION

Misc. No. 08-0442 (TFH)

AHMAD MOHAMMAD AL DARBI,

Petitioner,

v.

BARACK OBAMA,
President of the United States, *et al.*,

Respondents.

Civil Action No. 05-2371 (RCL)

**PETITIONER’S AND RESPONDENTS’ JOINT MOTION FOR A CONTINUANCE OF
RESPONDENTS’ MOTION TO DISMISS HABEAS PETITION WITHOUT
PREJUDICE OR, ALTERNATIVELY, TO HOLD PETITION IN ABEYANCE
PENDING COMPLETION OF MILITARY COMMISSION PROCEEDINGS**

On January 16, 2009, Respondents filed a Motion To Dismiss Habeas Petition Without Prejudice Or, Alternatively, To Hold Petition In Abeyance Pending Completion Of Military Commission Proceedings (the “Motion”) in the above-captioned case. The basis for the Motion was that active military commission proceedings were ongoing against Petitioner. Petitioner’s opposition to the Motion is due January 30, 2009.

On January 22, 2009, President Obama signed an Executive Order ordering the Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities (the “Executive Order”). Ex. A. Section 2(c) of the Executive Order recognized that the “individuals currently detained at Guantánamo have the constitutional

privilege of the writ of habeas corpus. Most of those individuals have filed petitions for a writ of habeas corpus in Federal court challenging the lawfulness of their detention.” Ex. A. Section 7 of the Executive Order then ordered that the

Secretary of Defense shall immediately take steps sufficient to ensure that during the pendency of the Review . . . , all proceedings of such military commissions to which charges have been referred but in which no judgment has been rendered, and all proceedings pending in the United States Court of Military Commission Review, are halted.

Id. On information and belief, on January 26, 2009, the United States moved for a 120-day continuance in Petitioner’s military commission proceeding. As of this writing, that motion remains pending.

On January 26, 2009, Petitioner, through Counsel, asked Respondents to consider withdrawing the Motion in light of the Executive Order. On January 27, 2009, Respondents informed Petitioner’s Counsel that Respondents are in the process of considering how they will proceed in this and similar cases, and are not in a position to withdraw the Motion at this time. That same day, Petitioner’s Counsel and Respondents agreed to a two-week continuance of Petitioner’s time to oppose the Motion, without prejudice to any further request for scheduling relief, while Respondents’ assessment continues.

Accordingly, Petitioner and Respondents respectfully request that the Court grant a two week continuance of Petitioner's time to oppose the Motion in the above captioned case until February 13, 2009.

Dated: January 29, 2009

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I today caused a true and accurate copy of the foregoing to be served electronically via the Court's Electronic Case Filing system.

Dated: January 29, 2009

/s/ Paul Curnin
Paul C. Curnin