

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

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**ABD AL-RAHIM HUSSAIN  
MOHAMMED AL-NASHIRI,**  
Guantanamo Bay Naval Station,  
Guantanamo Bay, Cuba,  
Petitioner,

v.

**GEORGE W. BUSH, et al.,**  
Respondents.

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**CIVIL ACTION  
(HABEAS CORPUS)**

No. 08-Civ-1207 (RWR)

Misc. No. 08-mc-442 (TFH)

JUDGE: Richard W. Roberts

**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 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 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.<sup>1</sup>

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<sup>1</sup> On January 29, 2008, the judge presiding over Petitioner Al-Nashiri’s military commission tribunal refused to stay his proceedings for 120 days. Ex. B. P-002, Ruling of James J. Pohl. A pentagon press secretary, reacting to the commission tribunal ruling, insisted that the military commission proceedings are “on hold,” regardless of the ruling. Ex. C, Gerry J. Gilmore, Military Commissions Must Obey President’s Directive, Official Says, American Forces Press Service, January 30, 2009. Petitioner continues to seek the continuance, given the confusion regarding the commission processes.

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 30, 2009  
Las Vegas, Nevada

Respectfully Submitted,

/s/ Paul G. Turner

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Dated: January 30, 2009

Respectively submitted,  
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/s/ Kristina A. Wolfe

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 30, 2009, I served the foregoing 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, with the United States District Court for the District of Columbia for electronic filing (CM/ECF) with the Court and service on the persons listed on the attached service list:

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