

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

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| IN RE: |) | |
| GUANTANAMO BAY |) | |
| DETAINEE LITIGATION |) | Misc. No. 08-442 (TFH) |
| |) | |
| TARIQ MAHMOUD ALSAWAM, |) | |
| Petitioner, |) | |
| v. |) | Civil Action No. 05-1244 (CKK) |
| |) | |
| BARACK OBAMA, |) | |
| President of the United States, <i>et al.</i> , |) | |
| Respondents. |) | |
| |) | |

NOTICE TO THE COURT

Pursuant to the Court’s January 26, 2009, Minute Order requiring the Government to submit a notice to the Court indicating the current status of the charges against Petitioner Tariq Mahmoud Alsaam (ISN 535) and whether there have been any changes in the Government’s position, the Government hereby submits that charges are still pending against Petitioner Alsaam for violations of the laws of war under the Military Commission Act of 2006, 10 U.S.C. §§ 948a-950w (the MCA), but have not been referred by the Convening Authority to a military commission for prosecution. *See* Resp’ts’ Mot. to Dismiss, dkt. no. 91 at 5 in Civil Action No. 05-1244. Further, the Secretary of Defense has directed the Convening Authority to cease referring cases to military commissions to provide the Executive sufficient time to conduct a review of the detainees held at Guantanamo Bay pursuant to the President’s January 22, 2009 Executive Order pertaining to the “Review and Disposition of Individuals Detained at the

Guantanamo Bay Naval Base and Closure of Detention Facilities.” See Exec. Order No. 13, 492, 74 Fed. Reg. 4897 (Jan. 22, 2009) (hereinafter “Executive Order”).

With respect to the question of whether there have been any changes in the Government’s position concerning the motion, the President stated in the Executive Order, among other things, that “[i]t is in the best interests of the United States that the executive branch undertake a prompt and thorough review of the factual and legal bases for the continued detention of all individuals currently held at Guantanamo.” Executive Order § 2(d). The Government is now assessing how it will proceed in this and other Guantanamo Bay detainee *habeas corpus* cases in light of the change in Administrations and the requirements of the Executive Order. Time is needed to make that assessment and determination. Accordingly, the Government is not modifying its motion at this time.

Date: February 6, 2009

Respectively submitted,

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