

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

_____	)	
IN RE:	)	
GUANTANAMO BAY	)	Misc. No. 08-442 (TFH)
DETAINEE LITIGATION	)	
_____	)	
IDRIS AHMED ABDU QADIR IDRIS,	)	
	)	
Petitioner,	)	Civil Action No. 09-00745 (RCL)
v.	)	
BARACK OBAMA <i>et al.</i> ,	)	
	)	
Respondents.	)	
_____	)	

**PETITIONER IDRIS AHMED ABDU QADIR IDRIS’S UNOPPOSED MOTION  
FOR AN EXTENSION OF THE DEADLINE TO FILE PETITIONER’S TRAVERSE**

Petitioner Idris Ahmed Abdu Qadir Idris, through counsel, hereby move this Honorable Court for an extension of the deadline to file Mr. Idris’s Traverse.

Currently pending is Respondents’ Motion to Dismiss for lack of direct authorization, filed April 29, 2009. (Case No. 09-CV-745, Docket Entry No. 1160, 4/29/09). Petitioner’s response to that Motion to Dismiss is due June 29, 2009. (Case No. 09-CV-745, Docket Entry No. 1179, 5/13/09). In light of the current dispute over counsel’s authority to proceed on behalf of Mr. Idris, counsel moves this Court to continue Mr. Idris’s Traverse deadline until 30 days after that Motion has been resolved.

Undersigned counsel have conferred with opposing counsel, in compliance with Local Rule 7(m), and the government has no objection to Petitioner’s request to continue the Traverse

date until 30 days after any denial of Respondents' pending Motion to Dismiss.

## **I. Procedural Background**

Counsel for Petitioner entered their appearance in this case the above captioned matter on December 15, 2008. The action before this Court was originally assigned to Judge Reggie B. Walton under Case Number 05-CV-2386.

On December 16, 2008, Judge Walton issue an amended Case Management Order (hereinafter "CMO") stating that Petitioner's traverse was due 14 days from the later date of (1) the Government filing notice of compliance with exculpatory information pursuant to section I.D.1, or (2) the filing of the unclassified return. The Government filed its notice of compliance with section I.D.1 of the CMO on April 6, 2009. (Case No. 05-CV-2386, Docket Entry No. 1123, "Notice, Certification Pertaining to Production of Exculpatory Information of 04/06/2009"). At that point, under the CMO, Petitioner's traverse was due on or before April 20, 2009.

On February 19, 2009, Judge Walton issued a Supplemental Case Management Order ("Supplemental CMO"), which among other things re-set the traverse deadline for Mr. Idris (and others). (Case No. 05-CV-2386, Supplemental Case Management Order, ¶ 8, pp. 7-8, Record Entry No. 1011). Under the Supplemental CMO, Mr. Idris's traverse is due ten days after the issuance of Judge Walton's then-pending decision setting forth the legal standard governing the scope of the government's detention authority. (*Id.*)

On April 21, 2009, Judge Walton issued an Order instructing the Clerk to create a new civil action comprised of Mr. Idris and seven other petitioners in Case No. 05-CV-2386, assigning that new civil action to Chief Judge Lamberth, and terminating the eight transferred

petitioners from 05-CV-2386.<sup>1</sup> (Case No. 05-CV-2386, Docket Entry No. 1153, 4/21/09.) At that point, Judge Walton had not issued his decision regarding the scope of the government's detention authority, and thus the traverse deadline had not been triggered.

On April 22, 2009, after Mr. Idris had been transferred from case 05-CV-2386 to case 09-CV-745, Judge Walton issued his order setting forth a standard governing the scope of the government's detention authority. (Case No. 05-CV-2386, Docket Entry No. 1158, 4/22/09.) Because Mr. Idris's case was transferred before that decision, Judge Walton's order regarding the government's detention authority does not apply to Mr. Idris.

Assuming Judge Walton's Supplemental CMO remains in effect for Mr. Idris, it is somewhat unclear how to apply that order in light of the transfer of Mr. Idris's case to this Court before Judge Walton had issued his order regarding the scope of the government's detention authority. It makes little sense for the traverse deadline for Mr. Idris in this case to be triggered by an order in another case – Judge Walton's order dated 4/22/09 in case 05-CV-2386 – that does not apply to him.

Accordingly, counsel submit that the most logical and efficient way to interpret and apply Judge Walton's Supplemental CMO is that Mr. Idris's Traverse is due ten days after this Court issues its decision setting forth the standard governing the scope of the government's detention authority. This Court issued that order on May 21, 2009, adopting the standard articulated by Judge Bates in *Hamlily v. Obama*, Civ. A. No. 05-763, 2009 WL 1393113 (D.D.C.

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<sup>1</sup> Judge Walton's Order put into effect an April 7, 2009 Resolution of the Executive Session of the United States District Court for the District of Columbia.

May 19, 2009).<sup>2</sup> (Case No. 05-CV-745, Docket Entry No. 1187, 5/21/09). Accordingly, counsel submit that Mr. Idris's Traverse, under the currently operative scheduling order, is now due June 1, 2009, which is ten days after this Court's issuance of its decision regarding the scope of the government's detention authority.

Currently pending is a Motion to Dismiss for lack of direct authorization filed by Respondents on April 29, 2009. (Case No. 09-CV-745, Docket Entry No. 1160, 4/29/09). This Court granted Petitioner until June 29, 2009 to respond to that motion. (Case No. 09-CV-745, Docket Entry No. 1179, 5/13/09).

**II. This Court Should Resolve the Pending Motion to Dismiss Before Counsel Files Any Traverse on Behalf of Mr. Idris.**

Based on the current procedural posture of this case, counsel move this Court to set Mr. Idris's Traverse to be due 30 days after this Court resolves Respondents' pending Motion to Dismiss. It makes little sense for counsel to file a Traverse on behalf of Mr. Idris unless and until this Court denies Respondents' pending Motion to Dismiss, which challenges counsel's authority to proceed on behalf of Mr. Idris. As noted above, counsel for the government do not object to this request.

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<sup>2</sup> This Court noted that Judge Bates' standard, now adopted by this Court, is different from the standard articulated by Judge Walton in *Gherebi v. Obama*, Civ. A. No. 04-1164, 2009 WL 1068955 (D.D.C. Apr. 22, 2009), in that the latter standard includes the phrase "substantial support" while the former standard does not. Notwithstanding this difference, this Court expressed the view that, in light of Judge Walton's explanation of how he understands and will apply the concept of "substantial support," the two standards are "not inconsistent . . . as applied."

June 1, 2009

Respectfully submitted,

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