

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

**IN RE:  
GUANTANAMO BAY  
DETAINEE LITIGATION**

Misc. No. 08-442 (TFH)

Civil Action Nos.:

02-CV-0828, 04-CV-1136, 04-CV-1164,  
04-CV-1194, 04-CV-1254, 04-CV-1937,  
04-CV-2022, 04-CV-2035, 04-CV-2046,  
04-CV-2215, 05-CV-0023, 05-CV-0247,  
05-CV-0270, 05-CV-0280, 05-CV-0329,  
05-CV-0359, 05-CV-0392, 05-CV-0492,  
05-CV-0520, 05-CV-0526, 05-CV-0569,  
05-CV-0634, 05-CV-0748, 05-CV-0763,  
05-CV-0764, 05-CV-0833, 05-CV-0877,  
05-CV-0881, 05-CV-0883, 05-CV-0889,  
05-CV-0892, 05-CV-0993, 05-CV-0994,  
05-CV-0995, 05-CV-0998, 05-CV-0999,  
05-CV-1048, 05-CV-1124, 05-CV-1189,  
05-CV-1220, 05-CV-1236, 05-CV-1244,  
05-CV-1347, 05-CV-1353, 05-CV-1429,  
05-CV-1457, 05-CV-1458, 05-CV-1487,  
05-CV-1490, 05-CV-1497, 05-CV-1504,  
05-CV-1505, 05-CV-1506, 05-CV-1509,  
05-CV-1555, 05-CV-1590, 05-CV-1592,  
05-CV-1601, 05-CV-1602, 05-CV-1607,  
05-CV-1623, 05-CV-1638, 05-CV-1639,  
05-CV-1645, 05-CV-1646, 05-CV-1649,  
05-CV-1678, 05-CV-1704, 05-CV-1725,  
05-CV-1971, 05-CV-1983, 05-CV-2010,  
05-CV-2083, 05-CV-2088, 05-CV-2104,  
05-CV-2112, 05-CV-2185, 05-CV-2186,  
05-CV-2199, 05-CV-2200, 05-CV-2249,  
05-CV-2349, 05-CV-2367, 05-CV-2371,  
05-CV-2378, 05-CV-2379, 05-CV-2380,  
05-CV-2381, 05-CV-2384, 05-CV-2385,  
05-CV-2386, 05-CV-2387, 05-CV-2398,  
05-CV-2444, 05-CV-2477, 05-CV-2479,  
06-CV-0618, 06-CV-1668, 06-CV-1674,  
06-CV-1684, 06-CV-1688, 06-CV-1690,  
06-CV-1691, 06-CV-1758, 06-CV-1759,

06-CV-1761, 06-CV-1765, 06-CV-1766,  
06-CV-1767, 07-CV-1710, 07-CV-2337,  
07-CV-2338, 08-CV-0987, 08-CV-1085,  
08-CV-1101, 08-CV-1104, 08-CV-1153,  
08-CV-1185, 08-CV-1207, 08-CV-1221,  
08-CV-1222, 08-CV-1223, 08-CV-1224,  
08-CV-1227, 08-CV-1228, 08-CV-1229,  
08-CV-1230, 08-CV-1231, 08-CV-1232,  
08-CV-1233, 08-CV-1234, 08-CV-1235,  
08-CV-1236, 08-CV-1237, 08-CV-1238,  
08-CV-1310, 08-CV-1360, 08-CV-1440

**RESPONDENTS' STATUS REPORT REGARDING  
THE FILING OF FACTUAL RETURNS AND  
REQUEST FOR EXCEPTION FROM SEQUENCING**

Consistent with the Court's July 11, 2008 Scheduling Order (Misc. No. 08-0442) (dkt. no. 53), as amended by the Court's September 19, 2008 Order (Misc. No. 08-0442) (dkt. no. 464), respondents, as of today, have filed 50 proposed amended or original factual returns in the Guantanamo Bay habeas corpus cases coordinated under Misc. No. 08-0442. Attached Exhibit A contains a list of petitioners for whom amended or original factual returns have been filed since the Court's July 11, 2008 Order, including the case number, petitioner's name, petitioner's ISN, the type of return (original or amended), and the date of filing of the return.<sup>1</sup>

Consistent with the Court's September 19, 2008 Order, factual returns for petitioners who have been approved for transfer or release from Guantanamo Bay have not been filed.

Additionally, respondents seek to file factual returns with respect to seven petitioners in the first 50 filed habeas petitions out of sequence. Those petitioners are listed in attached Exhibit

---

<sup>1</sup> In addition to the returns for the petitioners listed in Exhibit A, during August and September 2008 respondents have also filed an additional 13 returns in cases pending before Judges Leon and Sullivan.

B.<sup>2</sup> In place of those factual returns, respondents have filed factual returns pertaining to seven other petitioners with later-filed petitions. This deviation from sequencing reflects primarily issues related to the clearance of proposed evidence for use in the factual returns, as more fully described in Respondents' Motion for Partial and Temporary Relief from the Court's July 11, 2008 Scheduling Order (Misc. No. 08-0442) (dkt. no. 317), or has resulted from unique issues related to evidence proposed for use in connection with specific returns. Such issues have made completion of factual returns with respect to these petitioners more complicated or time-consuming than returns of others, such that it was not appropriate to delay the processing of returns for other petitioners in the sequence in order to complete the processing of these more complicated or time-consuming returns. Disclosure of additional detail regarding the issues that have resulted in the deviation from normal sequencing would risk improper disclosure of classified information subject to the clearance issues referenced above or of attorney-client privileged information or attorney work product. Additional detail can be provided to the Court *ex parte* and *in camera*, should the Court require it, however.

Respondents will continue filing factual returns on a rolling basis in anticipation of completion and filing of at least an additional 50 factual returns monthly.

Dated: September 30, 2008

Respectfully submitted,

GREGORY G. KATSAS  
Assistant Attorney General

JOHN C. O'QUINN  
Deputy Assistant Attorney General

---

<sup>2</sup> Counsel for respondents has attempted to confer with counsel for these petitioners, who either oppose the requested relief or have not responded.

/s/ Terry M. Henry

JOSEPH H. HUNT (D.C. Bar No. 431134)

VINCENT M. GARVEY (D.C. Bar No. 127191)

JUDRY L. SUBAR (D.C. Bar No. 347518)

TERRY M. HENRY

ANDREW I. WARDEN

PAUL AHERN

Attorneys

United States Department of Justice

Civil Division, Federal Programs Branch

20 Massachusetts Ave., N.W.

Washington, DC 20530

Tel: (202) 514-4107

Attorneys for Respondents