

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

IN RE:)

GUANTANAMO BAY)
 DETAINEE LITIGATION)

Misc. No. 08-0442 (TFH)

Civil No. 05-CV-1506 (RMC)

**PETITIONER’S UNOPPOSED MOTION TO REQUIRE RESPONDENTS
TO SUBMIT FACTUAL RETURN**

Petitioner Sufyian Barhoumi, a/k/a Shaffiq, hereby respectfully submits his Motion to Require Respondents to Submit Factual Return. As grounds for this Motion, Petitioner states as follows:

1. In its Scheduling Order issued on July 11, 2008 (Document No. 71 in Case 1:05-CV-01506-RMC), this Court ordered that: “At this time pending further order of the Court, the government need not file factual returns or motions to amend factual returns for the approximately 20 detainees charged with war crimes under the Military Commissions Act of 2006.” *Id* at f.n. 1.
2. Petitioner is one of the approximately 20 detainees who were the subject of the ruling quoted in Paragraph 1.
3. On October 20, 2008, the charges against Petitioner under the Military Commissions Act of 2006 were dismissed without prejudice. *See* Exhibit A attached. The Military Commissions prosecutors have given no indication if, or when, charges will be asserted against Petitioner. As a result, Petitioner, once again, faces indefinite incarceration, with this habeas proceeding as the proper means to test the propriety of that incarceration.
4. Accordingly, it is appropriate to require Respondents to submit a factual return on the schedule established by this Court for other habeas petitioners, so that Petitioner will be included in that schedule in the order in which his Petition was filed.
5. Counsel for Petitioner have conferred with counsel for Respondents, who stated their position in an October 23, 2008 e-mail as follows: “In light of the dismissal of the MCA charges without prejudice, respondents agree that petitioner Barhoumi is no longer exempted by the provision of Judge Hogan’s order governing production of factual returns. Respondents, of course, may move for an exception to sequencing of the filing of factual returns and reserve the

right to do so in Mr. Barhoumi's case. Further, in the event MCA charges are reinstated against petitioner Barhoumi, production of a factual return would not be required under Judge Hogan's scheduling order."

6. Thus, Respondents do not oppose the relief requested by Petitioner.

7. A proposed order is attached for the Court's convenience.

Dated: October 22, 2008

Respectfully submitted,

s/ Scott S. Barker

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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2008, I electronically filed the foregoing with the Clerk of Court using the ECF system, which will send notification of such filing to the following:

United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W., Room 7144
Washington, DC 20530

s/ Scott S. Barker

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