

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

IN RE:

**GUANTANAMO BAY
DETAINEE LITIGATION**

Misc. No. 08-442 (TFH)

Civil Action No. 05-01490 (PLF)

ORDER

Upon consideration of the Respondents' Motion to Dismiss Improper Respondents and Petitioners' Memorandum of Law in Opposition thereto, it is hereby:

ORDERED that Respondents' Motion is DENIED in its entirety; and it is further

ORDERED that if, within seven days of the entry of this Order, Respondents file and serve a notice signed by all Respondents (with actual, not typed, signatures) stipulating to all of the assertions set forth in paragraphs 1 through 5 below, then in such instance Respondents named in the above captioned matters other than the Secretary of Defense shall be dismissed without prejudice as to only the habeas claims in the above-captioned cases:

- 1) the Secretary of Defense is a proper respondent;
- 2) the Secretary of Defense is subject to the jurisdiction of the Court;
- 3) the Secretary of Defense has the power and authority to implement any court orders granting the relief requested in Petitioners' complaints including, but not limited to, Petitioners' release and production of documents or any other evidence in the possession or control of the government;
- 4) the government, not limited to the Department of Defense, has an obligation to preserve documents or any other evidence relevant to this litigation; and

5) the government will not transfer petitioner to the custody of another branch of the U.S. government and should it do so, the government agrees to reinstate the President as the Respondent in this litigation.

SO ORDERED.

Dated: _____

Thomas F. Hogan
United States District Judge