

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

IN RE:

**GUANTÁNAMO BAY
DETAINEE LITIGATION**

SALIM SAID, *et al.*,

Petitioners,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Misc. No. 08-442 (TFH)

No. 1:05 CV 2384 (RWR)

**PETITIONERS' OPPOSITION TO RESPONDENTS'
MOTION TO DISMISS IMPROPER RESPONDENTS**

Petitioners Saad Al Qahtani and Mohammed Zahrani (“Said Petitioners” or “Petitioners”), by their undersigned counsel, respectfully submit this opposition to Respondents’ Motion to Dismiss Improper Respondents.

The Said Petitioners oppose the Government’s motion for the reasons set forth in the Memorandum of Law in Opposition to Respondents’ “Motion to Dismiss Improper Respondents” filed today in *Mousovi v. Bush*, 05-CV-1124 (RMC), *Al Razak v. Bush*, 05-CV-1601 (GK), *Zadran v. Bush*, 05-CV-2367 (RWR), and the *In re Guantánamo Bay Detainee Litigation* (Misc. No. 08-442, Dkt. 872). As in those cases, the President, the Secretary of Defense, and Petitioners’ immediate custodians are respondents in these proceedings.

Petitioners’ counsel informed Respondents’ counsel by e-mail that Petitioners do not oppose the Government’s motion provided that safeguards are put in place to prevent substantial prejudice

to the rights of Petitioners. (See e-mail from Sarah Crane to Scott Marconda dated October 13, 2008, attached as Exhibit A.) Respondents' counsel did not respond to this e-mail before filing their motion.

The Said Petitioners also oppose the Government's motion because, if granted, it would effectively foreclose full consideration of Petitioner Al Qahtani's still unresolved motion concerning probable spoliation of evidence. On January 7, 2008, Petitioner Al Qahtani filed a motion to preserve remaining exculpatory evidence. (1:05-CV-2384, Dkt. 79, 83.) The motion was fully briefed on February 19, 2008. (1:05-CV-2384, Dkt. 80, 81, 85, 88.) To date, this motion remains unresolved. The Petitioners therefore respectfully request that, at a minimum, the Court maintain jurisdiction over all executive branch agencies pending resolution of Petitioner Al Qahtani's motion to preserve remaining exculpatory evidence.

Dated: October 30, 2008

Respectfully submitted,

/s/ Patricia A. Bronte
One of the Attorneys for Petitioners

David W. DeBruin
JENNER & BLOCK LLP
601 Thirteenth Street, N.W., Suite 1200
Washington, DC 20005-3823
Tel: (202) 639-6000
Fax: (202) 639-6066

Patricia A. Bronte
Sapna G. Lalmalani
JENNER & BLOCK LLP
330 North Wabash Ave.
Chicago, IL 60611
Tel: (312) 923-8357
Fax: (312) 840-7757

Of Counsel
Gitanjali S. Gutierrez (GG1234)
666 Broadway, 7th Floor
New York, NY 10012
Tel: (212) 614-6464
Fax: (212) 614-6499

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2008, I caused a true and correct copy of the foregoing Opposition to Respondents' Motion to Dismiss Improper Respondents to be delivered to the below-listed counsel of record in the above-captioned matters through the CM/ECF system:

Andrew I. Warden
Terry Marcus Henry
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue NW
Washington, D.C. 20530

/s/ Patricia A. Bronte