

**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-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-1235, 08-CV-1236, 08-CV-1237,
08-CV-1238, 08-CV-1310, 08-CV-1360,
08-CV-1440, 08-CV-1628, 08-CV-1789,
08-CV-1805, 08-CV-1828

**RESPONDENTS' OCTOBER 31, 2008 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 for the month of October 2008 fifty (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 for the month of October 2008, 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.¹ Thus, since the beginning of August 2008, respondents have filed a total of 120 proposed amended or original factual returns in cases pending before the Judges of this Court, 100 in these coordinated cases, seven (7) in cases before Judge Sullivan, and 13 in cases before Judge Leon; this is in addition to other litigation-related activity in the cases.

¹ In addition to the returns for the petitioners listed in Exhibit A, during October 2008 respondents have also filed an additional seven (7) returns in cases pending before Judge Leon, pursuant to his orders in those cases.

While not required by the Court's September 19, 2008 Order, included among the 50 factual returns filed this month are original or amended factual returns for certain petitioners who have been approved for transfer or release from Guantanamo Bay. Returns filed for such petitioners are also indicated on the list contained in Exhibit A. Work on these returns began in August as a result of uncertainty on the part of respondents that was resolved by the Court's September 19, 2008 clarifying order as to whether filing returns for petitioners who have been approved for transfer or release was required. *See* Respondents' Motion for Partial and Temporary Relief from the Court's July 11, 2008 Scheduling Order at 13 n.4 (Misc. No. 08-0442) (filed Aug. 29, 2008) (dkt. no. 317) ("Aug. 29 Motion"). To the extent feasible, the work on these returns was taken to completion, and because of delays in the clearance of proposed evidence for use in other factual returns, as more fully described in respondents' Aug. 29 Motion, the filing of these completed returns for detainees approved for transfer or release was necessary.

Additionally, respondents seek to file out of sequence factual returns with respect to 10 petitioners who otherwise would have included in the normal sequencing for this month under the September 19, 2008 Order.² Those petitioners are listed in attached Exhibit B.³ In place of

² Counsel for respondents has conferred or attempted to confer with counsel for these petitioners, who either oppose the requested relief or have not responded, except that counsel for petitioners ISN 004, 560, 893, 1104, and 1119 do not oppose respondents' request with respect to a delay through the end of November 2008.

³ With respect to respondents' request for out-of-sequence processing of seven other returns from September 2008, *see* Respondents' Status Report Regarding The Filing of Factual Returns and Request for Exception from Sequencing (Misc. No. 08-0442) (filed Aug. 29, 2008) (dkt. no. 602), respondents filed returns for three of the seven petitioners in October 2008, as indicated in Exhibit C. Respondents continue their request for out-of-sequence processing of the returns for the remaining four petitioners, but are making every reasonable effort to file returns

those factual returns, respondents have filed factual returns pertaining to 10 other petitioners who either have later-filed petitions or are approved for transfer or release. This deviation from sequencing primarily reflects issues related to the clearance of proposed evidence for use in the factual returns, as more fully described in respondents' Aug. 29 motion, and in some cases 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 significantly 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 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 inappropriate disclosure of classified information subject to the clearance issues referenced above or of attorney-client privileged information or attorney work product. Additional detail regarding the circumstances of these cases can be provided by respondents to the Court *ex parte* and *in camera*, should the Court require it, however.

Respondents intend to continue filing factual returns on a rolling basis in anticipation of completion and filing of at least an additional 50 factual returns monthly. In addition, respondents are in the process of developing a plan and proposal for submission of unclassified or declassified versions of factual return material and hope to present such a plan to the Court within approximately the next week to ten days.

for those petitioners during the coming month.

Dated: October 31, 2008

Respectfully submitted,

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