

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SHAFIQ RASUL, *et al.*)

Petitioners,)

v.)

GEORGE WALKER BUSH,)

President of the United States, *et al.*,)

Respondents.)

Civil Action No. 02-CV-0299 (CKK)

FAWZI KHALID ABDULLAH FAHAD)

AL ODAH, *et al.*)

Plaintiffs,)

v.)

UNITED STATES OF AMERICA,)

et al.,)

Defendants.)

Civil Action No. 02-CV-0828 (CKK)

MAMDOUH HABIB, *et al.*,)

Petitioners,)

v.)

GEORGE WALKER BUSH,)

President of the United States, *et al.*,)

Respondents.)

Civil Action No. 02-CV-1130 (CKK)

MURAT KURNAZ, *et al.*,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1135 (ESH)

O. K., *et al.*,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1136 (JDB)

MOAZZAM BEGG, *et al.*,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1137 (RMC)

MOURAD BENCHELLALI, *et al.*,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1142 (RJL)

JAMIL EL-BANNA, *et al.*,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1144 (RWR)

FALEN GHEREBI, *et al.*,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1164 (RBW)

LAKHDAR BOUMEDIENE, *et al.*,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1166 (RJJ)

SUHAIL ABDUL ANAM, *et al.*,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1194 (HHK)

ISA ALI ABDULLA ALMURBATI,
et al.,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1227 (RBW)

MAHMOAD ABDAH, *et al.*,

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,

Respondents.

Civil Action No. 04-CV-1254 (HHK)

SALIM AHMED HAMDAN,

Petitioner,

v.

DONALD RUMSFELD,
Secretary of Defense, *et al.*,

Respondents.

Civil Action No. 04-CV-1519 (JR)

**COORDINATION ORDER SETTING FILING SCHEDULE
AND DIRECTING THE FILING OF CORRESPONDENCE
PREVIOUSLY SUBMITTED TO THE COURT**

By Order dated August 17, 2004, the Calendar and Case Management Committee of the United States District Court for the District of Columbia designated this Judge to coordinate and manage all proceedings in these matters and to the extent necessary rule on common procedural and substantive issues. On September 14, 2004, the Executive Session of the United States District Court for the District of Columbia issued its Resolution affirming that this Judge will continue to coordinate and manage proceedings in all Guantanamo Bay cases pursuant to the August 17, 2004 Order. (A copy of the Resolution is attached to this Order.) The Resolution also provides that all Guantanamo Bay cases, both those which have been filed and those which may be filed in the future, are to be transferred by the Judge to whom they are assigned, pursuant to LCvR 40.6(a) and 40.5(e), to this Judge for coordination and management and that the transferring Judge will retain the case for all other purposes. Among other terms, the Resolution further provides that this Judge will identify and delineate both procedural and substantive issues that are common to all or some of the Guantanamo Bay cases and, to the extent possible and as consented to by the transferring Judge, Judge Green will rule on procedural issues that are common to these cases. As to substantive issues, to the extent possible and provided that consent is given by the transferring Judge, this Judge will address specified substantive issues that are common to the Guantanamo Bay detainee cases.

Judge Green held status conferences on August 23, 2004 and August 27, 2004, during which the Court encouraged counsel for the parties to resolve some disputes without the

necessity of a formal ruling. Certain progress has been made in this regard. For example, in a letter to the Court dated August 31, 2004, counsel for the respondents announced respondents' intention to submit factual returns containing the reasons for the detention of petitioner-detainees on a rolling basis, with the first factual returns to be submitted on or around September 8, 2004, the majority of factual returns for current petitioner-detainees to be submitted by the end of September 2004, and all of the factual returns to be submitted by the week of October 18, 2004.

Counsel for the government have also submitted correspondence in response to the Court's inquiry during the status conferences regarding several matters, including that of possible juveniles detained in Guantanamo Bay. In response to that correspondence, counsel for petitioner in O.K. v. Bush, 1:04-CV-1136 (JDB), submitted their own correspondence stating their positions regarding individuals alleged to be juveniles. Additional correspondence, including the September 17, 2004 joint communication from counsel for the petitioners and the September 20, 2004 communication from counsel for the respondents, was also filed.

As a further follow up to the Court's status conferences, counsel for petitioners in El-Banna v. Bush, 1:04-CV-1144 (RWR), submitted a motion to file under seal that counsel's own recollection of what was discussed at the status conferences. The Court has reviewed counsel's summary. Certain statements contained therein are accurate; other statements are inaccurate.

To ensure a complete and accurate record in these coordinated proceedings, and because the above-referenced correspondence contains additional information either specifically requested by the Court or information that was not provided in the earlier status conferences, the Court herein orders the various correspondence to be filed formally in the cases. Letters relating to issues common to all coordinated cases shall be filed in all of the existing coordinated cases

and letters relating to issues limited to individual cases will be filed only in those cases. The Court further orders that no further communications with the Court in letter form will be accepted. Rather, any requests or status reports shall be filed with the Court in accordance with the Local Rules and other applicable procedural rules.

As to the Motion to Seal Petitioners' Status Report filed in El-Banna v. Bush, 1:04-CV-1144 (RWR), the Court sees no reason for the status report to be filed under seal. Although the Court clearly and accurately recalls what was discussed in the status conferences, and although it finds some of the representations contained in petitioners' report submitted through counsel to be inaccurate, it will allow the report to be filed as part of the record in El-Banna v. Bush.

With respect to the respondents' communication setting forth its commitments regarding the submission of factual returns, and possibly as a result of the Calendar and Case Management Committee's August 17, 2004 coordination Order, there appears to be some confusion regarding the timing of respondents' obligations to file formal responses to petitioners' applications for writs of habeas corpus or other relief. The record reflects that in some cases orders to show cause have been issued and some deadlines have been expressly extended; in other cases no order to show cause has yet been issued. To ensure proper coordination, the Court herein sets a briefing schedule for formal responses to petitioners' applications for writs of habeas corpus or other relief. The Court emphasizes that the formal responses shall be in addition to the factual bases that respondents have committed to deliver to petitioners and to the Court on a rolling basis beginning on or around September 8, 2004 and concluding during the week of October 18, 2004. In no event shall the previously agreed upon schedule for the submission of factual bases delay the schedule set forth herein for responsive pleadings to petitioners' applications for writs of

habeas corpus or other relief. The Court wishes to make clear that it expects the respondents to formally file with the Court the factual bases it delivers to counsel for the petitioners.

In accordance with the above summary of the status of these matters, it is hereby

ORDERED that pursuant to 28 U.S.C. § 2243, Respondents shall file with the Court and serve on Petitioners' counsel in all coordinated cases on or before October 4, 2004 responsive pleadings showing cause why Writs of Habeas Corpus and the relief sought by Petitioners should not be granted. It is further

ORDERED that Petitioners shall file with the Court and serve on Respondents' counsel on or before October 12, 2004 reply briefs. It is further

ORDERED that Respondents shall file the factual returns for each detainee as they are provided to counsel for the Petitioners on a rolling basis in accordance with Respondents' proposed schedule. It is further

ORDERED that specific correspondence submitted directly to Court shall be filed in the appropriate cases as designated by the Court. It is further

ORDERED that no future submissions to the Court shall be made in letter form. All future submissions to the Court shall be formally filed and served on counsel of record in accordance with the Local Rules. It is further

ORDERED that the Motion to Seal Petitioners' Status Report shall be denied, but the underlying status report shall be filed in El-Banna v. Bush, 1:04-CV-1144 (RWR).

IT IS SO ORDERED.

September 20, 2004

/s/
JOYCE HENS GREEN
United States District Judge

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

RESOLUTION OF THE EXECUTIVE SESSION

September 15, 2004

WHEREAS, a significant number of cases pertaining to more than 60 individual detainees at Guantanamo Bay are already pending with this Court (the “Guantanamo Bay cases”); and

WHEREAS, it is expected that up to 400 or more new Guantanamo Bay cases could be filed with this Court in the near future; and

WHEREAS, it is in the interests of the litigants, as well as the public, the Court, and counsel, to provide the most expeditious and efficient handling of these cases;

IT IS HEREBY RESOLVED by the Executive Session of the United States District Court for the District of Columbia that:

1. Senior Judge Joyce Hens Green will continue to coordinate and manage proceedings in all Guantanamo Bay cases to the extent necessary as provided by the Order of the Calendar Committee issued August 17, 2004.
2. All Guantanamo Bay cases, both those which have been filed and those which may be filed in the future, are to be transferred by the Judge to whom they are assigned, pursuant

to LCvR 40.6(a) and 40.5(e), to Senior Judge Joyce Hens Green for coordination and management. The transferring Judge will retain the case for all other purposes.

3. Senior Judge Joyce Hens Green will identify and delineate both procedural and substantive issues that are common to all or some of these cases.

4. To the extent possible, and as consented to by the transferring Judge, Senior Judge Joyce Hens Green will rule on procedural issues that are common to these cases.

5. As to substantive issues, Senior Judge Joyce Hens Green will confer with those Judges whose cases raise common substantive issues. To the extent possible, and provided that consent is given by the transferring Judge, one of the transferring Judges or Senior Judge Joyce Hens Green will address specified substantive issues that are common to the Guantanamo Bay cases.¹ A Judge who does not agree with any substantive decision reached in this manner may resolve the issue in his or her own case as he or she deems appropriate.

¹ LCvR 40.6(a) provides that: “A Judge, upon written advice to the Calendar Committee, may transfer directly all or part of any case on the Judge’s docket to any consenting Judge” (emphasis added).