

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE:

GUANTANAMO BAY
DETAINEE LITIGATION

SUHAIL ABDU ANAM, et al.,

Petitioners,

- v -

GEORGE W. BUSH, et al.,

Respondents.

Misc. No. 08-442 (TFH)

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

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

Petitioners, by their undersigned counsel, respectfully submit this opposition to Respondents' Motion to Dismiss Improper Respondents.

The Anam 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 Guantanamo Bay Detainee Litigation* (Misc. No. 08-442). As in those cases, the President, the Secretary of Defense, and Petitioners' immediate custodians are respondents in these proceedings. As in those cases, Petitioners do not oppose the Government's motion provided that safeguards are put in place to prevent substantive prejudice to the rights of Petitioners.

The Anam Petitioners also oppose the Government's motion because, if it is granted without procuring the stipulations Petitioners seek, full consideration of Petitioners' still unresolved motion concerning probable spoliation of evidence would be effectively foreclosed. On February 15, 2008, Petitioners filed a classified Motion for Report Concerning the Destruction of Evidence and for Amended Preservation Order, which the Government opposed. This Motion arose out of probable destruction of relevant evidence by government agencies, including agencies outside the Department of Defense.¹ To date, this Motion remains unresolved. Petitioners therefore respectfully request that, at a minimum, the Court maintain jurisdiction over all executive branch agencies pending resolution of Petitioners' Motion.

Dated: October 30, 2008

Respectfully submitted,

By: /s/ Sarah Havens

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¹ Despite repeated requests from Petitioners' counsel, the Government has not yet provided unclassified version of Petitioners' Motion for public filing.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Opposition to Respondents' "Motion to Dismiss Improper Respondents" was served upon counsel of record by the CM/ECF system on the 30th day of October, 2008.

/s/ Sarah Havens
Sarah Havens