

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SUHAIL ABDU ANAM, *et. al.*,

Petitioners,

v.

BARACK H. OBAMA, *et. al.*,

Respondents.

No. 04-CV-1194 (TFH)

**MEMORANDUM IN SUPPORT OF PETITIONERS' MOTION
FOR EXTENSION OF TIME TO MOVE FOR ADMISSION OF
HEARSAY EVIDENCE AND TO SCHEDULE A STATUS CONFERENCE**

Petitioners,¹ by and through their undersigned counsel, respectfully submit this Memorandum in Support of their Motion for Extension of Time and to Schedule a Status Conference.

Petitioners in this case filed their petitions for writ of habeas corpus on July 15, 2004, and the case was initially assigned to Judge Kennedy. On April 16, 2009, the case was reassigned to Your Honor.

Following the Supreme Court's June 12, 2008 ruling in *Boumediene v. Bush*, 128 S.Ct. 2229 (2008), Petitioners' habeas cases were remanded for consideration of the merits. On July 1, 2008, an Executive Session of the United States District Court for the District of Columbia resolved to designate Your Honor to coordinate and manage proceedings in all Guantanamo Bay

¹ There are currently thirteen Petitioners in this case, eight of whom have active cases. On November 13, 2008, counsel for Petitioners Khaled Ahmed Qassim (ISN 242), Abdulkhaliq Ahmed al Baidhani (ISN 553), Bisheer Nasser al Marwalah (ISN 837), Ali Ahmed al Rezehi (ISN 045) and Ali Yahya Mahdi (ISN 167) and counsel for the Government entered into a stipulation to stay the petitions of these five Petitioners, which was so ordered by the Court on December 12, 2008.

cases. The Executive Session further resolved that the judges to whom the cases were initially assigned would retain the cases for all other purposes. On November 6, 2008, this Court issued a Case Management Order (the “CMO”). The Government moved for reconsideration of the CMO which was granted in part and denied in part on December 16, 2008.

After seeking and receiving an extension of earlier deadlines, Respondents’ automatic discovery under Sections I.D.I and I.E.1 of the CMO, as amended, was due by January 30, 2009. *See Anam v. Obama*, No. 04-cv-1194 (D.D.C. Jan. 26, 2009) (order granting government motion for extension of time). On February 4, 2009, Petitioners filed a motion to compel compliance with the CMO and to set a schedule because Respondents’ productions under Sections I.D.I and I.E.1 of the CMO, as amended, were late, inadequate, or both. This motion is fully briefed and currently pending.

The CMO, as amended, ordered the parties to direct any future motion to amend the CMO to the merits judge assigned to the individual case. Accordingly, Judge Kennedy held a status conference on January 28, 2009, and on February 10, 2009, issued an order setting the following schedule in these proceedings:

- The Government’s motion to modify its legal justification for detention was due on February 18, 2009, and Petitioners’ response was due by March 2, 2009.
- Petitioners’ motions for additional discovery pursuant to Section I.E.2 of the CMO were due on March 16, 2009.
- All discovery was to be complete by no later than April 17, 2009.
- Any motion for the admission of hearsay evidence is due by April 30, 2009.
- Petitioners’ traverses are due no later than May 15, 2009.

See Anam v. Bush, No. 04-cv-1194 (D.D.C. Feb. 10, 2009) (case management order).

This schedule has already fallen by the wayside. In the first instance, the deadline for the Government to file its brief setting forth its legal justification for detention was extended until March 13, 2009. *See Anam v. Bush*, No. 04-cv-1194 (D.D.C. Mar. 3, 2009) (order granting motion for extension of time). Petitioners' responsive brief was filed on March 23, 2009. Second, the Government sought and received an extension of time to respond to Petitioners' motions for additional discovery under Section I.E.2 of the CMO. *See Anam v. Bush*, No. 04-cv-1194 (D.D.C. Mar. 26, 2009) (order granting motion for extension of time). Petitioners' Section I.E.2 discovery motions were fully briefed on April 6, 2009. Due to the Government's multiple requests for extensions and the outstanding discovery motions, discovery was not completed by April 17, 2009.

Both parties' motions for the admission of hearsay evidence are due tomorrow, April 30, 2009. However, because discovery is not yet complete, Petitioners are unable to determine which hearsay documents, if any, they will move to admit. Petitioners respectfully request that the Court schedule a status conference at the Court's earliest convenience in order to set a new schedule for briefing on hearsay admissions and to discuss the remainder of the schedule going forward.

Petitioners have conferred with Respondents' counsel and they do not oppose this motion.

For all the forgoing reasons, Petitioners respectfully request that this Court grant an extension of time for the parties to move for the admission of hearsay and schedule a status conference.

Dated: April 29, 2009

Respectfully submitted,

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