

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

_____)	
IN RE:)	
GUANTANAMO BAY)	Misc. No. 08-442 (TFH)
DETAINEE LITIGATION)	
_____)	
MOHMOAD ABDAH, <i>et. al.</i> ,)	
)	
Petitioners,)	
)	Civil Action No. 04-1254 (HHK)
v.)	
)	
GEORGE W. BUSH, <i>et. al.</i> ,)	
)	
Defendants.)	
_____)	

**RESPONDENTS’ OPPOSITION TO PETITIONERS’ MOTION FOR A STATUS
CONFERENCE TO CONSIDER SCHEDULING ISSUES**

Respondents hereby respond to Petitioners’ November 26, 2008 Motion for a Status Conference to Consider Scheduling Issues, Dkt. No. 351 in 04-cv-1254. Petitioners move the Court to schedule a status conference to discuss “whether changes should be made to the CMO’s timing for discovery, disclosure of exculpatory information by the Government, and the filing of traverses.” Pet’r’s Mot., Dkt. No. 351 at 2-3. Respondents oppose Petitioners’ motion for a status conference because such issues, or related issues, are currently pending before Judge Hogan in connection with Respondents’s Motion for Clarification and Reconsideration of the November 6, 2008 Case Management Order and Supplemental Amended Orders or, in the Alternative, Motion for Certification for Appeal Pursuant to 28 U.S.C. § 1292(b) and to Stay Certain Obligations Pending Resolution of the Motion and any Appeal. *See* Dkt. No. 1004 in 08-mc-442.

On November 6, 2008, in accordance with the July 1, 2008 Resolution of the Executive Session, Judge Hogan issued a Case Management Order providing a general procedural framework for litigation in this case, along with 112 other habeas cases involving nearly 200 enemy combatants challenging their continued detention in the wake of *Boumediene v. Bush*, 128 S. Ct. 2229 (2008). Respondents subsequently filed its motion for clarification and reconsideration, and in response, Judge Hogan stayed, in this and other cases, the deadlines imposed by paragraphs I.C, I.D, I.E, I.F, II.B, II.C, and III.A of the CMO – including deadlines for filing unclassified returns and for providing discovery and exculpatory evidence – pending resolution of Respondents’ motion. *See* Order, Dkt. No. 1026 in 08-mc-442. Judge Hogan also scheduled a hearing on the matter for December 10, 2008. *See* Order, Dkt. No. 1158 in 08-mc-442. Thus, the common scheduling and discovery issues, or related issues, Petitioners wish to discuss at their proposed status conference are currently being considered by Judge Hogan. These issues remain within the purview of Judge Hogan’s coordination and management function pending adjudication of Respondents’ motion. Accordingly, a separate status conference in this case to discuss such issues, at a minimum, is premature prior to resolution of Respondents’ motion and the lifting of the November 21, 2008 stay. Petitioners’ motion, therefore, should be denied.

Dated: December 9, 2008

Respectfully submitted,

GREGORY G. KATSAS
Assistant Attorney General

JOHN C. O'QUINN
Deputy Assistant Attorney General

/s/ Kristina A. Wolfe

JOSEPH H. HUNT (D.C. Bar No. 431134)
VINCENT M. GARVEY (D.C. Bar No. 127191)
TERRY M. HENRY
ANDREW I. WARDEN (IN Bar 23840-49)
PAUL E. AHERN
KRISTINA A. WOLFE
Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W.
Washington, DC 20530
Tel: (202) 353-4519
Attorneys for Respondents