

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

SAIFULLAH PARACHA,

Petitioner,

v.

Case No. 04cv02022-PLF

Hon. GEORGE W. BUSH,

et al.,

Respondents.

**PETITIONER'S EMERGENCY MOTION TO STAY THE ORDER
OF SEPTEMBER 15, 2006,
ALLOWING A FILTER TEAM**

Respondents moved in many of the pending Guantanamo Bay habeas corpus cases for an order allowing a "Filter Team". This Filter Team would be a group from the Department of Defense which would go through the personal and legal papers of the prisoners at Guantanamo Bay. Respondents had seized these papers in a prison-wide dragnet to investigate the three suicides discovered on June 10, 2006.

Many petitioners objected, and many filed cross-motions seeking protection of their attorney-client and work-product privileges. Most of these motions were referred to Hon. James Robertson, U.S.D.J., for resolution. On September 15, 2006, Judge Robertson issued a Memorandum Order granting respondents' motion, but reserving judgment on the various cross-motions, and ostensibly preserving petitioners' rights to assert attorney-client privilege where appropriate.

Petitioner Paracha is filing herewith a motion asking for some modifications to that Order. Respondents oppose these modifications and will need time to file a response. Petitioner therefore asks for a stay of the September 15, 2006, order till the Court has had a chance to rule on petitioner's suggested modifications.

Respectfully submitted,

September 21, 2006

_____/s/_____
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**CERTIFICATE OF CONFERRING AND
CERTIFICATE OF SERVICE**

I hereby certify that on September 18, 2006, I conferred with Andrew Warden, Esq., attorney for respondents, in an attempt to narrow the issues raised by the motion to modify the Order of September 15, 2006. Respondents will oppose that motion. I also asked Mr. Warden for informal assurance that the actual review of petitioner's papers would not start until the motion could be ruled upon. Mr. Warden represented that no review of any papers had started as of that time, but he also said that respondents take the view that the Court's Order of September 15, 2006, is immediately effective and they have a right to start reviewing papers at any time.

I served this "Emergency Motion to Stay the Order of September 15, 2006, Allowing a Filter Team" by delivering it to the Court Security Office on September 21, 2006, with the request to clear it and to deliver a copy to Mr. Warden.

_____/s/_____
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**POINTS AND AUTHORITIES IN SUPPORT OF
PETITIONER'S EMERGENCY MOTION TO STAY THE ORDER
OF SEPTEMBER 15, 2006,
ALLOWING A FILTER TEAM**

Rule 62(b) FRCP allows stays of execution or of any proceedings to enforce a final judgment. Rule 60 allows relief from mistakes in judgments. Stays and modifications of interlocutory orders are much more freely granted, whenever there is good cause to do so. *E.g.*, *Lance v. UMWA 1974 Pension Trust Fund*, 04cv746-RCL in U.S D.C D.C., October 26, 2005, and *cf.* the discussion of Rule 54(b), dealing with partial summary judgments, in *Williams v. Johanns*, 03cv2245-CKK, October 24, 2005.

But in this motion petitioner asks only for a temporary stay to allow time for respondents to respond to his motion to clarify the terms on which petitioners' potentially privileged papers are to be inspected. It would be unconscionable to leave the Order in full effect pending the response. The privilege may well be breached at any time. Staying the Order need not delay respondents' investigation, as respondents control how long it will take them to respond, and if and when they have a proper Filter Team set up, they can move to vacate the stay.

Therefore the Order of September 15, 2006, should be stayed pending further order of this Court.

Respectfully submitted,

_____/s/_____
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September 21, 2006

A PROPOSED ORDER FOLLOWS:

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Hon . GEORGE W. BUSH,

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Respondents.

(PROPOSED) ORDER

IT IS HEREBY ORDERED:

That this Court's Order herein of September 15, 2006, and the Amended Order of September 20, 2006, and all Filter Team access to petitioners' papers, are hereby STAYED until further order of this Court.

IT IS SO ORDERED.

JAMES ROBERTSON

United States District Judge

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