

The Court Security Officer has approved direct ECF filing.

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

SAIFULLAH PARACHA,

Petitioner,

v.

Case No. 04cv02022-PLF
Oral Argument is Requested

Hon . GEORGE W. BUSH,

et al.,

Respondents.

**PETITIONER'S OPPOSITION TO
RESPONDENTS' MOTION FOR STAY**

This opposition addresses docket number 25, filed February 3, 2005, in which the government moves that all activity in all Guantanamo cases (with a few exceptions in some cases other than this one) be stayed indefinitely, pending decisions of two appeals.

Although the caption lists this case number, 04cv2022, as among the cases in which the motion for a stay is filed, it seems unlikely that the government intended to withdraw or indefinitely stay its own motions pending herein. But even if it did, that would be a serious disservice to the appellate courts and to the administration of justice.

At this date, at least the following matters are pending in this case before this court:

-- Docket number 20, petitioner's motion to vacate the order entered December 16, 2004, applying a protective order to the evidence and filings in this case;

-- Docket number 23, respondents' motion to dismiss and for judgment as a matter of law;

-- Docket number 24, respondents' motion to designate as "protected information" certain information;

Each of the above items was filed January 18, 2005, and by order of the court the times for oppositions to them were extended to February 15, 2005. (Petitioner, however, has already filed his response to respondents' motion to dismiss.)

Petitioner has also filed a motion for summary judgment. This motion argues that the Combatant Status Review Tribunal record shows on its face that petitioner was never an enemy combatant. Therefore he is entitled to release now, without delay. Should the summary judgment be granted, that will be an appealable order with a record to back it up, consisting mainly of the CSRT record. Interrupting this process with a stay now would prevent the government from addressing the issues petitioner has raised, which are largely factual and unique to his own case. A stay while the appellate courts consider the legal issues in the other Guantanamo cases would frustrate the making of the record in this case.

Should petitioner's motion for summary judgment be denied, petitioner is still in the strange position of never having been allowed to communicate with counsel. At least the practicalities of opening some channel of communication with counsel must be taken care of.


28 USC 2243 sets out a schedule for habeas corpus cases which in theory could have a petitioner released within 8 days of filing the petition. None of the Guantanamo cases are simple enough for such prompt disposition. Indeed, they require and deserve extensive research,

briefing, and development of facts. Stays may be appropriate at some future point. But a stay now would accomplish nothing but to keep us from getting into the record the facts that this or some higher court will need to decide the case.

WHEREFORE the motion for a stay should be denied.

Respectfully submitted,

February 10, 2005



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Approval to file this filing directly through the ECF system was granted by the Court Security Office by phone.

PROPOSED ORDER FOLLOWS:

IN THE UNITED STATES DISTRICT COURT FOR THE
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SAIFULLAH PARACHA,

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Case No. 04cv02022-PLF

Hon . GEORGE W. BUSH,

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Respondents.

ORDER DENYING MOTION FOR A STAY

The Court having considered respondents' motion filed February 3, 2005, requesting a stay, and petitioner's response thereto, the motion for a stay is hereby

DENIED.

IT IS SO ORDERED.

Date

United States District Judge

