

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
IN RE:)	Misc. No. 08-0442 (TFH)
GUANTANAMO BAY)	
DETAINEE LITIGATION)	Civil Action No. 04-1254 (HHK)
_____)	

**PETITIONERS' MOTION TO MODIFY THE AMENDED CASE MANAGEMENT
ORDER**

Petitioners Uthman Abdul Rahim Mohammed Uthman (ISN #27), Faruq Ali Ahmed (ISN #32), Abd Al Malik Abd Al Wahab (ISN #37), Majid Mahmud Abdu Ahmad (ISN #41), Muktar Yahya Najee Al Warafi (ISN #117), Allal Ab Aljallil Abd Al Rahman Abd (ISN #156), Adil Said Al Haj Obeid Al Busayss (ISN #165), Yasin Qasem Muhammad Ismail (ISN #522), and Mohammed Mohammed Hassen (ISN #681), by their undersigned counsel, respectfully move to modify the Case Management Order, as amended on December 16, 2008, to require each petitioner's traverse to be due on February 16, 2009. Counsel have conferred about this motion with counsel for the government, who have indicated that they do not oppose this request.

On December 16, 2008, Judge Hogan amended the November 6, 2008 Case Management Order. Dkt. #1315 in 08-mc-0442 ("Amended CMO"). The Amended CMO states that traverses for each petitioner are due "within 14 days of the date on which the government files notice relating to exculpatory evidence under Section I.D.1 of this Order or within 14 days of the date on which the government files the unclassified factual return, whichever is later." Amended CMO at 3. The Amended CMO further orders that "any future motions to amend the Case Management Order should be directed to the Merits Judges." *Id.* at 4. Petitioners request

that the Amended CMO be modified with respect to each of them to provide that each petitioner's traverse be due on February 16, 2009.¹

The additional time is needed to permit petitioners' counsel to make the necessary travel and other logistical arrangements to meet with each petitioner to discuss the government's allegations as set forth in the unclassified amended returns. Travel to Guantánamo Bay must be planned several weeks in advance to guarantee that translators and air travel are available. Most of the petitioners' unclassified amended returns were made available on December 12, 2008. The last two weeks of January is the earliest practicable time that counsel for petitioners can visit the base. Counsel are currently in the process of making the necessary travel arrangements to meet with each petitioner during the period from January 18, 2009, to January 31, 2009.

The proposed schedule allows approximately two weeks after counsel return from Guantánamo Bay to prepare each petitioner's traverse after having discussed with petitioners their responses to the unclassified returns.

CONCLUSION

For the reasons stated, Petitioners respectfully request that their Motion to Modify the Amended Case Management Order be granted.

¹ The Government has filed unclassified amended returns for each of the petitioners except Uthman Abdul Rahim Mohammed Uthman (ISN #27). Petitioners assume that the Government will comply with Section I.D.1 of the Amended CMO, relating to notice of disclosure of all reasonably available exculpatory evidence, and, with respect to petitioner Uthman, file an unclassified amended return at least 14 days before February 16, 2009. If the Government does not do so, Petitioners may find it necessary to seek additional relief at that time. The proposed schedule also assumes timely completion of discovery.

Respectfully submitted,

/s/ S. William Livingston
S. William Livingston
D.C. Bar. No. 59055
Alan A. Pemberton
D.C. Bar. No. 367108
COVINGTON & BURLING LLP
1201 Pennsylvania Ave., N.W.
Washington, DC 20004-2401
(202) 662-6000 (phone)
(202) 778-6000 (fax)
wlivingston@cov.com
apemberton@cov.com

David H. Remes
D.C. Bar. No. 370372
APPEAL FOR JUSTICE
1106 Noyes Drive
Silver Spring, MD 20910
(202) 669-6508 (phone)
remesdh@gmail.com

Marc D. Falkoff
D.C. Bar No. 491149
NORTHERN ILLINOIS UNIVERSITY
COLLEGE OF LAW
DeKalb, IL 60614
(347) 564-5043 (phone)
(815) 753-9301 (fax)
mdf19@columbia.edu

December 19, 2008