

[ARGUMENTS HELD ON MAY 15, 2007]

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

HAJI BISMULLAH, et al.,)	
Petitioners,)	
v.)	No. 06-1197
)	
ROBERT M. GATES, Secretary of Defense)	
Respondent.)	
)	
-----)	
HUZAIFA PARHAT, et al.)	
Petitioners,)	
v.)	No. 06-1397
)	
ROBERT M. GATES, Secretary of Defense,)	
Respondent.)	
-----)	

**MOTION TO EXPEDITE REVIEW OF REHEARING PETITION
AND ANY SUBSEQUENT PROCEEDINGS**

Respondent respectfully moves the Court to expedite consideration of respondent’s Petition for Rehearing and Suggestion for Rehearing En Banc, as well as any subsequent proceedings, if the petition is granted.

As explained in respondent’s rehearing petition, this appeal involves an exceptionally important threshold question concerning the scope of the record on review in actions under the Detainee Treatment Act. There are currently more than 130 DTA actions pending before this Court. The proper resolution of that threshold issue is therefore of critical importance before any of these cases proceed further.

Moreover, the panel’s opinion in this case, as well as Court orders already entered in other cases pursuant to the panel’s opinion, requires respondent to produce a broad class of material – termed “Government Information” – to the Court and counsel. As respondent explains in the petition for rehearing and the public and classified declarations submitted therewith, the Government’s production of that information could seriously endanger national security by, *inter alia*, disrupting the Nation’s intelligence gathering programs and by diverting limited resources from performing other critical national security duties during a time of armed conflict.

In addition, in granting certiorari to review this Court’s decision in Boumediene v. Bush, 476 F.3d 981 (D.C. Cir.), cert. granted, 127 S. Ct. 3078 (2007), the Supreme Court stated that “it would be of material assistance to consult” this Court’s decision in this case, and that supplemental briefing in Boumediene would be scheduled after this Court issues a decision here. The Supreme Court merits briefing is already well underway in Boumediene, and oral argument is likely to be held in December of this year. Expedition of respondent’s rehearing petition would afford the Supreme Court the benefit of this Court’s views if rehearing is granted and an en banc decision is issued during the current Supreme Court Term; or, if rehearing is denied, afford respondent the option of seeking Supreme Court review of this important issue during the same Term as the Boumediene case.

For those reasons, we respectfully request that this Court consider respondent's petition for rehearing on an expedited basis, and if the Court were to grant the petition, to expedite any further proceedings, such as by ordering simultaneous supplemental briefing.

CONCLUSION

For the foregoing reasons, this Court should expedite its consideration of respondent's petition for rehearing and, if granted, expedite any further proceedings.

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SEPTEMBER 2007

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2007, I caused copies of the foregoing Motion to Expedite Review of Rehearing Petition and Any Subsequent Review to be served upon counsel of record by causing copies to be sent by Federal Express overnight delivery or hand delivery (as specified) to:

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