

**STATUS OF NOTABLE GTMO AND
RELATED CASES AS OF JANUARY 2, 2008¹**

SUPREME COURT

- *Boumediene v. Bush*, Nos. 06-1195 & 06-1196. Reviewing D.C. Circuit's decision (02/20) dismissing appeals in habeas cases for want of jurisdiction under the Military Commissions Act of 2006 ("MCA"). Cert granted (06/29); case argued (12/05).
- *Geren v. Omar*, No. 07-394. Reviewing D.C. Circuit's affirmance of grant of preliminary relief barring transfer of U.S. citizen held at Camp Cropper to Iraqi custody. Cert granted (12/07).
- *Munaf v. Geren*, No. 06-1666. Reviewing D.C. Circuit's affirmance of denial of preliminary relief barring transfer of U.S. citizen held at Camp Cropper to Iraqi custody. Cert granted (12/07); transfer stayed pending review.
- *Zalita v. Bush*, No. 07-416. Seeking review of D.C. Circuit's denial of preliminary injunction barring Guantánamo prisoner's transfer to Libya. Cert petition listed for Conference of 01/11/08.
- *In re Al-Ghizzawi*, No. 07-6827. Seeking habeas relief for prisoner who was originally cleared by Combatant Status Review Tribunal ("CSRT") but then un-cleared after CSRT do-over. Habeas petition filed (07/26); govt response filed (12/20); reply to govt response filed (12/31); cert papers listed for distribution (01/03/08).
- *Paracha v. Bush*, No. 07-153. Seeking review of D.C. Circuit's dismissal of appeal in habeas case based on that court's 02/20 decision in *Boumediene*. Cert petition listed for Conference of 11/09. Apparently being held pending Supreme Court's decision in *Boumediene* (hereafter, "pending *Boumediene*").
- *In re Ali*, No. 06-1194. Seeking habeas relief for prisoner who was originally cleared by CSRT but then un-cleared after CSRT do-over. Habeas petition listed for Conference of 06/28. Apparently being held pending *Boumediene*.

COURTS OF APPEALS

D.C. Circuit

Habeas cases

- *Belbacha v. Bush*, No. 07-5258. Appealing District Court's denial of preliminary injunction barring prisoner's transfer to Algeria for want of jurisdiction based on D.C. Circuit's 02/20 decision in *Boumediene*. Argued (12/06); enjoining transfer pending further order of court issued (12/31) (possibly pending *Boumediene*).
- *Alhami v. Bush*, No. 07-5400. Govt appealing District Court's grant of preliminary injunction barring transfer of Tunisian (Rahman) from Guantánamo to Tunisia pending *Boumediene*. Appeal noticed (12/03).

¹ Unless otherwise noted, the prisoners are the moving party, and dates are in 2007.

- *Ruzatullah v. Gates*, No. 07-5402. Govt appealing District Court's grant of preliminary injunction barring transfer of Afghani (Haji Rohullah) from Bagram airbase pending *Boumediene*. Appeal noticed (12/03).

DTA cases

- *Paracha v. Gates*, No. 06-1038. First DTA petition filed. (01/24/06). Merits briefing suspended pending court's disposition of govt petition for panel reh'g and *en banc* reh'g in *Bismullah* (09/12) (see next entry).
- *Bismullah v. Gates*, No. 06-1197. DTA petition filed (06/09/06); decision on scope of record on review in cases brought under Detainee Treatment Act of 2005 ("DTA") (07/20). Govt petition for panel and *en banc* reh'g filed (09/07); panel reh'g denied (10/03); *en banc* reh'g petition pending (apparently pending *Boumediene*).
- *Parhat v. Gates*, No. 06-1397. DTA petition filed (12/04/06); dispositive motion filed (11/01); briefing on dispositive motion ordered (12/14). (*Parhat* is companion case to *Bismullah* in D.C. Circuit's 07/20 decision on scope of record on review).
- *Khan (Majid Khan) v. Gates*, No. 07-1324. DTA petition filed (08/15); motion to preserve torture evidence filed (11/30); interim preservation order entered (12/11); govt opposition filed (12/20).
- *Al Ginco v. Gates*, No. 07-1090. DTA petition filed (04/11). Suspending briefing schedule pending CSRT do-over (10/23); emergency motion to reinstate briefing schedule and for other relief filed (11/01).
- *Hamad v. Gates*, No. 07-1098. DTA petition filed (04/20). Suspending briefing schedule pending CSRT do-over (11/09). Govt motion to dismiss case for want of jurisdiction filed (12/13).
- *Husayn (Abu Zubaydah) v. Gates*, No. 07-1520. DTA petition filed (12/17).

Habeas cases on hold pending *Boumediene*

- *Hamdan v. Gates*, No. 07-5042. Seeking *en banc* hearing of appeal from District Court's dismissal of military commission challenge for want of jurisdiction under MCA. Post-*Boumediene* cert grant, holding petition in abeyance pending *Boumediene* (07/24).
- *Abdah v. Bush*, No. 05-5224. Govt appealing District Court's orders (most entered in 2005) requiring govt to provide advance notice of intended prisoner transfers from Guantánamo. Post-*Boumediene* cert grant, holding appeal in abeyance pending *Boumediene* (08/09).
- *Abdah v. Bush*, No. 05-5127. Govt appealing District Court's order (01/31/05) requiring govt to produce unredacted classified factual returns. Pre-*Boumediene* cert grant, holding appeal in abeyance pending disposition of *Boumediene* cert petition (03/17/06).
- *Kiyemba v. Bush*, No. 05-5487. Govt appealing District Court's stay of habeas action and 30-day notice order; argued (09/11/06); dismissing appeal for want of jurisdiction under D.C. Circuit's 02/20 decision in *Boumediene*, with direction to District Court to dismiss action (03/22); post-*Boumediene* cert grant, recalling mandate, pending *Boumediene* (09/07).
- *Paracha v. Bush*, No. 05-5194. Appealing District Court's dismissal of habeas case for want of jurisdiction under D.C. Circuit's 02/20 decision in *Boumediene*; dismissing appeal for

want of jurisdiction under that decision, with direction to District Court to dismiss action (04/09); post-*Boumediene* cert grant, staying mandate pending *Boumediene* (09/07).

- *Al Ginco v. Bush*, No. 06-5191. Appealing District Court's denial of 30-day notice order. Denying govt motion to vacate 30-day notice orders and direct dismissal of cases for want of jurisdiction under D.C. Circuit's 02/20 decision in *Boumediene*, and allowing District Court to dismiss or stay habeas cases, pending *Boumediene* (06/07).

Bivens action

- *Rasul v. Rumsfeld*, Nos. 06-5209 & 06-5222 (cross-appeals). Appealing District Court's dismissal of *Bivens* damage action claims for violation of Constitution and international law at Guantánamo (No. 06-5209); govt appealing District Court's denial of motion to dismiss *Bivens* damage action claims for violations of Religious Freedom Restoration Act ("RFRA") at Guantánamo. (No. 06-5222). Argued (09/14).

Fourth Circuit

- *Al-Marri v. Pucciarelli*, No. 06-7427. Appealing District Court's dismissal of habeas action (foreign national held in South Carolina naval brig). Reversed (06/11); *en banc* reh'g granted (08/22); reh'g argued (10/31).

Second Circuit

- *ACLU v. DoD*, No. 06-3140. Govt appealing District Court's order (06/21/06) requiring production of abuse photos in FOIA litigation. Argued (11/20/06).

DISTRICT COURTS

District of Columbia

- Twelve of the thirteen judges of the District Court with habeas cases have placed scores of cases on hold pending *Boumediene*, including two judges who reinstated, post-*Boumediene* cert grant, cases they had dismissed. A motion to reinstate is pending before the other judge.
- *Abdah v. Bush*, No. 04-1254 (HHK). Motion re document preservation filed (12/09); argued (12/21).
- *Abdullah v. Bush*, No. 05-0023 (RWR). Motion re document preservation filed (12/10); govt response filed (12/26); reply filed (01/01/08).
- *Al-Marri v. Bush*, No. 04-2035 (GK). Motion re document preservation filed (12/18).

Southern District of New York

- *ACLU v. DoD*, No. 04-4151 (AKH). Motion for contempt and sanctions re CIA tapes destruction filed (12/12).

Northern District of Illinois

- *Bronte v. DoD*, No. 07-3114 (JFH). FOIA case seeking CSRT and Annual Review Board ("ARB") records for certain prisoners. Complaint filed (06/04); answer filed (10/02); govt provided *Vaughn* index (12/15).

Western District of North Carolina

- *Davis v. DoD*, No. 07-0492 (RJC). FOIA case seeking records re “suicide” of Mazin Salih al-Habardion on 06/10/06 (one of three prisoner deaths that day). Complaint filed (11/19).

MILITARY COMMISSION CASES

- *U.S. v. David Hicks*. Under pretrial agreement, and after five years and four months imprisonment by the United States, Hicks pleads guilty to providing material support to Al Qaeda; is sentenced to seven years confinement, with all but nine months suspended; and is released to custody of Australian government (03/30), which released him on 12/29.
- *U.S. v. Omar Khadr*. Charged (referred 04/24) with (1) unlawful and intentional murder of Sergeant First Class Christopher Speer by throwing hand grenade at U.S. or Coalition Forces, (2) attempted murder by converting land mines into improvised explosive devices and planting the devices with intent to kill U.S. or Coalition Forces, (3) conspiracy to commit terrorist acts and acts in furtherance thereof, (4) providing material support to Al Qaeda, and (5) spying for Al Qaeda. D.C. Circuit denies motion to stay military commission proceedings for want of jurisdiction (No. 07-1156, 05/30). Court of Military Commission Review (“CMCR”) rules that Military Commission (“MC”) has jurisdiction to determine whether a defendant is an “unlawful” enemy combatant (09/24).
- *U.S. v. Salim Ahmed Hamdan*. Charged (sworn 02/02) with (1) conspiracy to commit terrorist acts, and (2) providing material support for terrorism. MC finds Hamdan not to be a POW (12/17), and, pursuant to CMCR ruling in *Khadr*, finds Hamdan to be an “unlawful” enemy combatant (12/19), rejecting Hamdan’s constitutional objections as barred by D.C. Circuit’s 02/20 decision in *Boumediene*.
- *U.S. v. Mohammed Jawad*. Charged (sworn 10/09) with (1) attempted murder, by throwing hand grenade into vehicle transporting Assadullah Khan Omerk, an interpreter for U.S. or Coalition Forces, and (2) intentionally causing serious bodily injury, by throwing hand grenade into vehicle transporting Sergeant First Class Michael Lyons.
- *U.S. v. Ahmed Mohammed Ahmed Haza Al Darbi*. Charged (sworn 12/20) with (1) conspiracy to commit terrorist acts (specifically, aided Al Qaeda plot (apparently not carried out) to attack vessel in Strait of Hormuz or off Yemen coast), and (2) providing material support for Al Qaeda.