

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

Ahcene Zemiri, et al.,

Petitioners,

Court File No: 04-2046 (CKK)

v.

George W. Bush, President of the
United States,

Defendants.

**ZEMIRI'S EMERGENCY MOTION TO LIFT STAY
AND SET A SCHEDULING CONFERENCE**

For the reasons set forth in Petitioner Ahcene Zemiri's Statement of Points and Authorities in Support of Emergency Motion to Lift Stay and Set a Scheduling Conference, Zemiri requests that the Court lift the stay and promptly schedule a status conference to calendar the matter for expedited determination on the merits.

Pursuant to Local Rule 7(m), counsel for Zemiri spoke with counsel for Respondents, Judry Sabar, by telephone on June 17, 2008 in a good faith effort to advise him that we anticipated filing this motion and to ask whether the government would oppose the motion. Mr. Sabar responded that the government is not consenting to the motion.

WHEREFORE, Zemiri respectfully requests that the Court lift the stay and promptly schedule a status conference to calendar the matter for expedited determination on the merits.

Dated: June 18, 2008

s/ Nicole M. Moen

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83.2(g)*

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Court File No: 04-2046 (CKK)

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George W. Bush, President of the
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**STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF
ZEMIRI'S EMERGENCY MOTION TO LIFT STAY
AND SET A SCHEDULING CONFERENCE**

Petitioner Ahcene Zemiri moves on an emergency basis for an order vacating the existing stay and scheduling an immediate status conference to set in place a calendar for decisions on the merits of his habeas corpus petition.

1. Petitioner Ahcene Zemiri ("Zemiri") is an Algerian citizen who has been held in prison by the United States at Guantanamo Bay, Cuba, since early 2002.

2. During the course of his detention, Zemiri has been (but no longer is) tortured and/or subjected to cruel, unusual, inhuman, and degrading treatment, including temperature manipulation, sleep manipulation, sound bombardment, and

strobe lighting. Zemiri has also been splashed with fake menstrual blood, short-shackled, and forced to maintain a stress position for long periods of time.

3. While detained, Zemiri has been isolated from the world and has had only limited correspondence with his friends and family. He has not seen his wife since October or November 2001. He has never seen their son, Karim, who is now six years old.

4. Zemiri has been kept in solitary confinement in Camp 5 since late 2006 or early 2007. He is allowed a recreation period of one to two hours per day, however, the recreation time varies, so Zemiri's recreation time often comes in the middle of the night.

5. In October 2004, a Combat Status Review Tribunal wrongfully determined that Zemiri is an "enemy combatant." On November 19, 2004, Zemiri filed a Petition for Writ of Habeas Corpus in this Court, *Zemiri v. Bush*, No. 04-2046 (CKK). The government moved to dismiss the Petition on December 28, 2004. *See* Docket No. 25. On April 24, 2005, the Court issued an order staying the case. *See* Docket No. 32. On March 8, 2007, the Court ordered that "the stay of the case is extended until further order of the Court."

6. On June 12, 2008, the Supreme Court struck down section 7 of the Military Commissions Act of 2006, 28 U.S.C. § 2241(e), which purported to deprive this Court of jurisdiction over Zemiri's habeas corpus petition. *Boumediene v. Bush*, 553 U.S. ____ (June 12, 2008). In *Boumediene*, the Court held that "[t]he

detainees in these cases are entitled to a prompt habeas corpus hearing.” *Id.*, slip op. (majority) at 66.

7. Zemiri asserts that there is no lawful basis for his imprisonment. Zemiri has been afforded no judicial review of the merits of his claims or the lawfulness of his detention. At an evidentiary hearing, Zemiri will show that he is entitled to release based on the evidence in his case.

8. Zemiri is now in his seventh year of detention. Under *Boumediene* and 28 U.S.C. §§ 2241 and 2243, Zemiri is entitled to a prompt hearing on his petition. Zemiri’s need for habeas relief is especially urgent given the circumstances of his confinement and the mistreatment he has suffered. The Court should set a scheduling conference to address pre-hearing issues, including discovery and a factual return.¹

¹ Zemiri has filed a DTA Petition in the D.C. Circuit Court of Appeals. *Boumediene* makes clear that DTA relief is separate and distinct statutory relief and does not preclude *habeas* relief. At a scheduling conference, counsel will address any issues arising out of parallel proceedings.

Accordingly, the Court should grant Zemiri's motion, lift the stay, and set a scheduling conference.

Dated: June 18, 2008

s/ Nicole M. Moen
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Attorneys for Petitioner Ahcene Zemiri

*Representing Petitioner without compensation
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