



U.S. Department of Justice
Office of the Solicitor General

Washington, D.C. 20530

May 8, 2008

Honorable William K. Suter
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Robert M. Gates et al. v. Haji Bismullah et al.,
Nos. 07-1054 & 07A677

Dear Mr. Suter:

The purpose of this letter is to advise the Court of new developments regarding Haji Bismullah, one of the eight detainees who are respondents in the above-captioned case. On May 1, 2008, on the basis of new evidence, the Deputy Secretary of Defense directed that a new Combatant Status Review Tribunal (CSRT) be convened to consider Bismullah's enemy combatant status. The effect of that decision is to render non-final the prior CSRT decision that forms the basis for Bismullah's petition for review. The decision to hold a new CSRT hearing for Bismullah does not, however, render the above-captioned case moot, because it does not impact the CSRT determinations for the other seven detainee respondents, and their petitions for review still present live controversies. See Rasul v. Bush, 542 U.S. 466, 471 n.1 (2004) (release of two of fourteen petitioners who were detainees did not render case moot).

In light of the Deputy Secretary's decision to convene a new CSRT for Bismullah, the government today asked the court of appeals to enter an order remanding Bismullah's case to the agency or to hold Bismullah's case in abeyance pending the completion of the new CSRT proceeding. (A copy of the government's filing with the court of appeals is attached as Attachment A.) If the court of appeals enters such an order, the government will advise this Court promptly.

Respectfully,

Paul D. Clement
Solicitor General
Counsel of Record

cc: See Attached Service List