

[Oral Argument held September 8, 2005, and March 22, 2006]

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

LAKHDAR BOUMEDIENE, <i>etc., et al.</i> ,	)	
	)	
Appellants,	)	
	)	
v.	)	No. 05-5062
	)	consolidated with
GEORGE W. BUSH, President of the	)	No. 05-5063
United States, <i>et al.</i> ,	)	
	)	
Appellees.	)	
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KHALED A. F. AL ODAH, <i>et al.</i> ,	)	
	)	
Appellees-Cross-Appellants,	)	
	)	
v.	)	No. 05-5064
	)	consolidated with
UNITED STATES OF AMERICA, <i>et al.</i> ,	)	Nos. 05-5095 – 05-5516
	)	
Appellants-Cross-Appellees.	)	
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**OPPOSITION TO MOTION TO PROVIDE FOR SUPPLEMENTAL BRIEFING**

Lakhdar Boumediene *et al.*, appellants in Case Nos. 05-5062 and 05-5063, and Khaled A. F. Al Odah, *et al.*, appellees-cross-appellants in Case Nos. 05-5065, 05-5095 – 05-5116 (collectively, the “Guantanamo Detainees”) oppose the government’s Motion to Provide for Supplemental Briefing (“Gov’t Mot.”) to address the Supreme Court’s decision in *Hamdan v. Rumsfeld*, No. 05-184 (June 29, 2006). There is no need for supplemental briefing, and the grant of the government’s motion would cause further unwarranted delay in the disposition of these appeals, seriously prejudicing the Guantanamo Detainees.

The government correctly observes that the Supreme Court's opinion in *Hamdan* is "obviously pertinent" to the present appeals (Gov't Mot. at 1). However, the government offers no reason why it would be "helpful" to the Court to have the parties submit additional briefs addressing *Hamdan* (Gov't Mot. at 2), and there is none. The government does not and could not claim that *Hamdan* is vague or ambiguous on the "obviously pertinent" jurisdictional issue. *Hamdan* speaks with perfect clarity on that issue, squarely holding that the Detainee Treatment Act of 2005 did not strip the federal courts of jurisdiction over the Guantanamo Detainees' pending habeas corpus petitions. Already having the benefit of three rounds of briefs and two oral arguments that anticipated many of the arguments accepted or rejected in *Hamdan*, this Court is fully capable of applying *Hamdan* to the present appeals without additional help from the parties.<sup>1</sup>

Moreover, the Court should not countenance any more delay in the disposition of these appeals, which would be the inevitable result if the Court granted the government's motion. Notwithstanding this Court's Order of March 10, 2005, expediting these appeals, more than two years have passed since the Supreme Court issued its mandate in *Rasul v. Bush*, 542 U.S. 466, 485 (2004), ordering the district court to "consider in the first instance the merits of [the Guantanamo Detainees'] claims." Not one of the Guantanamo Detainees has had his habeas petition heard, considered, or decided on its merits. Meanwhile, the Guantanamo Detainees languish in their *fifth year* of imprisonment without being charged with any wrongdoing. The Court should resolve these appeals as soon as possible to prevent further prejudice to the Guantanamo Detainees.

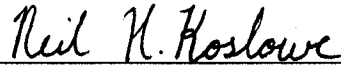
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<sup>1</sup> Notably, the government previously insisted that the Court could decide these appeals without regard to the Supreme Court's *Hamdan* decision. See Government's Opposition to Motion to Defer Supplemental Briefs Addressing Section 1005 of the Detainee Treatment Act of 2005, at 5-6 (filed January 12, 2006).

## CONCLUSION

The Court should deny the government's motion to provide for supplemental briefing to address the *Hamdan* decision.

Respectfully submitted,



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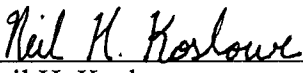
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On Behalf of the Guantanamo Detainees*

**CERTIFICATE OF SERVICE**

I certify that today, July 3, 2006, I served the Guantanamo Detainees' Opposition to the government's Motion to Provide for Supplemental Briefing on the government by causing a copy to be mailed by first-class mail, postage prepaid, and to be electronically transmitted to:

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