

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

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**No. 06-1197**

HAJI BISMULLAH *a/k/a* HAJI BISMILLAH, and *a/k/a* HAJI BESMELLA, HAJI  
MOHAMMAD WALI, Next Friend of HAJI BISMULLAH,  
Petitioners

v.

ROBERT M. GATES, U.S. SECRETARY OF DEFENSE,  
Respondent

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**No. 07-1508**

ABDUL SABOUR,  
Petitioner

v.

ROBERT M. GATES,  
Respondent

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**No. 07-1509**

ABDUL SEMET,  
Petitioner

v.

ROBERT M. GATES,  
Respondent

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**No. 07-1510**

JALAL JALALDIN,  
Petitioner

v.

ROBERT M. GATES,  
Respondent

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**No. 07-1511**

KHALID ALI,  
Petitioner

v.

ROBERT M. GATES,  
Respondent

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**No. 07-1512**

SABIR OSMAN,  
Petitioner

v.

ROBERT M. GATES,  
Respondent

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**No. 07-1523**

HAMMAD MEHMET,  
Petitioner

v.

ROBERT M. GATES,  
Respondent

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

Petitioners respectfully move the Court under Circuit Rule 27(f) 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.

Petitioner Bismullah faces imminent and continued irreparable harm if the instant motion for expedition is not granted. He has been detained for five-and-a-half years, despite the fact that the Government has never been required to show a shred of proof to this or any other Court that he was properly designated as an enemy combatant. He seeks to be permitted to demonstrate the merits of his claim under the Detainee Treatment Act of 2005 ("DTA"), which cannot occur until the Government's continuing challenges on this preliminary procedural issue are resolved.

Although Mr. Bismullah's continued detention should by itself constitute irreparable harm and support the expeditious consideration of Respondent's *en banc* petition, there is also a public interest in obtaining a prompt resolution of the issues raised therein. The substantive ruling that Respondent challenges was issued fifteen months ago, on motions filed by Petitioners well over two years ago. *Bismullah v. Gates*, 501 F.3d 178 (D.C. Cir. 2007) ("*Bismullah I*"). More than a year ago, Respondent moved simultaneously for rehearing by the panel and rehearing *en banc*,<sup>1</sup> both of which were denied. *Bismullah v. Gates*, 503 F.3d 137 (D.C. Cir. 2007) ("*Bismullah II*"); *Bismullah v.*

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<sup>1</sup> Last year, the Government moved for expedited consideration of its rehearing petition, arguing that "this appeal involves an exceptionally important threshold question concerning the scope of the record on review in actions under the Detainee Treatment Act," the resolution of which was "of critical importance." Mot. to Expedite Review of Reh'g Pet. at 1, *Bismullah v. Gates*, Nos. 06-1197, 06-1397 (D.C. Cir. Sept. 7, 2007). For some reason, a year later, the Government now lacks the same sense of urgency in its identical petition for rehearing.

*Gates*, 514 F.3d 1291, 1295 (D.C. Cir. 2008) (“*Bismullah III*”). *Bismullah I* and *Bismullah II* were vacated and remanded by the Supreme Court in light of *Boumediene v. Bush*, 128 S. Ct. 2229 (2008), and the panel of this Court then reinstated Respondent’s obligation to produce the Government Information to Petitioners’ counsel. *See Order, Bismullah v. Gates*, No. 06-1197 (D.C. Cir. Aug. 22, 2008) (“*Bismullah IV*”).

Public interest demands the final resolution of this ongoing issue. The DTA was enacted nearly three years ago, but a basic procedural issue has become a bottleneck preventing any Guantánamo detainee from obtaining the full record to which he is entitled. Both the public and the other detainees with DTA claims deserve the immediate resolution of this issue, rather than continued delay while the Government seeks a fifth bite at the apple. In the interest of justice, this case must proceed without further delay.

October 23, 2008

Respectfully submitted,

**DEBEVOISE & PLIMPTON LLP**

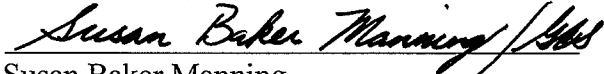


Jennifer R. Cowan  
919 Third Avenue  
New York, NY 10022  
Telephone: (212) 909-6000  
Facsimile: (212) 909-6836

John B. Missing  
555 13th Street, N.W.  
Washington, D.C. 20004  
Telephone: (202) 383-8000  
Facsimile: (202) 383-8118

*Counsel for Petitioners Haji Bismullah and  
Haji Mohammad Wali*

**BINGHAM McCUTCHEN LLP**



Susan Baker Manning  
2020 K Street, N.W.  
Washington, D.C. 20006  
Telephone: (202) 373-6000  
Facsimile: (202) 373-6001


Sabin Willett  
Rheba Rutkowski  
150 Federal Street  
Boston, MA 02110  
Telephone: (617) 951-8000  
Facsimile: (617) 951-8736

*Counsel for the Uighur Petitioners*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing MOTION TO EXPEDITE REVIEW OF REHEARING PETITION AND ANY SUBSEQUENT PROCEEDINGS was served on October 23, 2008, via e-mail and first class U.S. mail, postage prepaid, on the following:

Robert Loeb, Esq.  
August E. Flentje  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Room 7268  
Washington, DC 20530

  
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Gregory A. Senn