

[NOT YET SCHEDULED FOR ORAL ARGUMENT]

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

Mahmoad Abdah, et al.,)	
Petitioners-Appellees,)	
v.)	No. 05-5224
George W. Bush, et al.,)	
Respondents-Appellants.)	

Consolidated with 05-5225, 05-5227, 05-5228,
05-5229, 05-5230, 05-5231, 05-5232, 05-5235,
05-5236, 05-5237, 05-5238, 05-5239, 05-5242,
05-5243, 05-5244, 05-5246, 05-5247, 05-5248,
05-5337, 05-5338, 05-5339, 05-5353, 05-5374,
05-5390, 05-5398, 05-5478, 05-5479, 05-5484,
05-5486, 06-5037, 06-5039, 06-5041, 06-5043,
06-5062, 06-5064, 06-5065, 06-5067, 06-5094

MOTION TO GOVERN FURTHER PROCEEDINGS

On August 9, 2007, this Court entered an order holding the above-captioned consolidated cases in abeyance and requiring the parties to file motions to govern further proceedings within 30 days of the Supreme Court's decision in Boumediene v. Bush, No. 06-1195, which was decided on June 12, 2008. This motion is filed in compliance with that order.

After respondents filed the appeals in Nos. 05-5228, 05-5231, 05-5247, 05-5339, 06-5039, 06-5064, and 06-5067, the petitioners in those cases have left Guantanamo Bay after notice was provided to the district court and petitioners' counsel. Accordingly, these appeals should be dismissed as moot.

The remaining consolidated appeals relate to injunctions issued by the district court in habeas corpus actions brought by (or on behalf of) aliens detained by the Department of Defense at Guantanamo Bay, Cuba. The district courts entered orders in these actions restricting the Government's transfer or removal of petitioners from Guantanamo Bay, and the government timely appealed. In addition to these consolidated appeals, there are 11 other similar appeals pending before this Court raising the same issue. We are filing this same motion in all 11 cases.

The Supreme Court's decision in Boumediene, which reversed and remanded this Court's decision, holds that the Military Commissions Act is not a bar to subject matter jurisdiction to habeas corpus challenges to detention.

Respondents, however, respectfully request that the remaining above-captioned appeals be temporarily stayed pending this Court's resolution of Kiyemba v. Bush, No. 05-5487 and consolidated cases, which presents the very same issues regarding injunctive relief that are at issue in this appeal. Kiyemba has been fully briefed and was argued to this Court on September 11, 2006.¹ On July 1, 2008, respondents requested that in Kiyemba, this Court order simultaneous supplemental briefing (to be completed in 21 days) to address recent developments, and, if necessary, oral

¹ This Court issued the judgment in Kiyemba on March 22, 2007, and the mandate on May 10, 2007. The Court subsequently recalled the mandate on September 7, 2007.

argument. Thus, respondents anticipate that Kiyemba will be resolved expeditiously. See also Motion to Govern Further Proceedings, Kiyemba v. Bush, No. 05-5487 (July 1, 2008).

Because the issues on appeal are the same in Kiyemba as well as the remaining appeals captioned above, any decision in the Kiyemba case is likely to be dispositive of the above-captioned appeals, and will likely obviate the need for full briefing and oral argument in these cases. In addition, such a stay will conserve the Court's and the parties' resources by preventing the parties from having to file, and the Court from having to consider, duplicative briefings in this and 11 similar appeals pending before this Court.

CONCLUSION

For the foregoing reasons, we respectfully request that the Court dismiss as moot the appeals in Nos. 05-5228, 05-5231, 05-5247, 05-5339, 06-5039, 06-5064, and 06-5067, and stay the remaining above-captioned consolidated appeals pending a decision in Kiyemba.

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CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2008, I filed and served the foregoing Motion to Govern Further Proceedings by causing an original and four copies to be delivered to the Court via hand delivery, and by causing one paper copy to be delivered to lead counsel of record via U.S. mail:

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