

[ORAL ARGUMENT HELD ON SEPTEMBER 14, 2007]

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

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SHAFIQ RASUL, ET AL.,                    )  
  )  
Plaintiffs-Appellants/                 )  
Cross-Appellees,                        )  
  ) Nos. 06-5209, 06-5222  
v.    )  
  )  
DONALD RUMSFELD, ET AL.,            )  
  )  
Defendants-Appellees/                    )  
Cross-Appellants.                        )  
\_\_\_\_\_)

**OPPOSITION TO APPELLANTS/CROSS-APPELLEES'  
MOTION TO EXTENSION OF TIME**

Defendants-appellees/cross-appellants hereby oppose appellants/cross-appellees' motion for a 20-day extension of time.

1. On December 22, 2008, this Court ordered supplemental briefs "addressing the effect, if any, of the holding in *Boumediene v. Bush*, 128 S.Ct. 2229 (2008), on this court's opinion in *Rasul v. Myers*, 512 F.3d 644 (D.C. Cir. 2008), in light of Circuit precedent." Under this Court's order, the initial submissions of the parties, which may not exceed 15 pages, are due January 6, 2009. Simultaneous replies, not to exceed 10 pages, are due ten days thereafter, on January 16.

2. Counsel for Rasul, *et al.*, now seek to extend the time for the responses by 20 days, with the opening supplemental briefs due January 26, 2009.

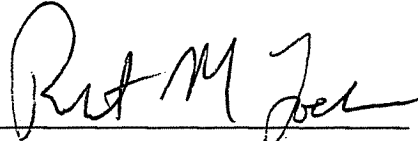
3. We believe that the extension sought is not warranted. With due respect, the time provided by the Court to file a 15-page supplemental brief is more than adequate. The parties, in their petition for certiorari and the opposition thereto, have already thoroughly briefed the matters to be addressed in the supplemental filings. Thus, there is no need for the additional 20 days, and the Court's scheduling order should be left in tact.

4. Finally, Rasul's suggestion that the briefing order is improper until the Supreme Court issues its mandate is not well taken. First, under Supreme Court Rule 45.3, a formal mandate does not typically issue in a case such as this. *See* S.Ct. Rule 45.3 ("In a case on review from any court of the United States, \* \* \* a formal mandate does not issue unless specially directed"). Instead, the Supreme Court simply sends this Court a certified judgment. *Ibid.* In any event, there is no rehearing request and no reason whatsoever to expect that the certified judgment will not issue in a timely manner. This Court is not taking any substantive action in this case prior to the issuance of the certified judgment. Rather, the Court is simply requesting briefing so that it can be prepared to act quickly once it issues. There is nothing improper about this Court's course of action.

## CONCLUSION

For the foregoing reasons, defendants oppose appellants/cross-appellees' motion for a 20-day extension of time.

Respectfully submitted,



ROBERT M. LOEB  
(202) 514-4332



MATTHEW M. COLLETTE  
(202) 514-4214  
Attorneys, Appellate Staff  
Civil Division, Room 7212  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530

DECEMBER 2008

## CERTIFICATE OF SERVICE

I certify that on December 24, 2008, I served the foregoing OPPOSITION TO APPELLANTS/CROSS-APPELLEES' MOTION TO EXTENSION OF by causing a copy to sent by email to lead counsel (Eric L. Lewis) and copies to be sent by first-class mail to:

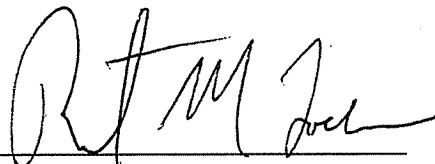
Eric L. Lewis  
Anne Katherine Toomey  
Sarah L. Knapp  
Elizabeth A. Wilson  
Baach, Robinson & Lewis  
1201 F Street, N.W.  
Suite 500  
Washington, DC 20004-1225

William C. Aceves  
California Western School of Law  
225 Cedar Street  
San Diego, CA 02101

Sidney S. Rosdeitcher  
Paul, Weiss, Rifkind, Wharton & Garrison  
1285 Avenue of the Americas  
New York, NY 10019-6064

Michael Ratner  
Jennifer M. Green  
Shayana Kadidal  
Center for Constitutional Rights  
666 Broadway, 7th Floor  
New York, NY 10012

Paul Hoffman  
Schonbrun, DeSimone, Seplow  
Harris & Hoffman  
723 Ocean Front Walk  
Venice, CA 90201



Robert M. Loeb