

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ABDUL HAMID AL-GHIZZAWI	)
Prisoner,	)
Guantanamo Bay Naval Station	)
Guantánamo Bay, Cuba;	)
	)
	)
<i>Petitioner,</i>	) RESPONSE
	) motion to
v.	)
	) No. 05 cv 2378 (JDB)
	)
Barack Obama, et. al.	)
<i>Respondents.</i>	)

**PETITIONERS SUPPLEMENTAL RESPONSE IN OPPOSITION TO THE  
GOVERNMENT’S MOTION FILED UNDER SEAL**

Petitioner Abdul Hamid Al-Ghizzawi ("Petitioner" or "Al-Ghizzawi")  
hereby supplements her Response to the Governments Motion under seal  
as follows:

On November 24<sup>th</sup>, 2009 Counsel for Petitioner filed a Response to a  
Motion by the Government despite the fact that she had not actually seen  
the Motion. Counsel did this because of her well reasoned concern that the  
Government would wait as long as possible to send Counsel the actual  
Motion (it was emailed to her 1 ½ hours after the notice went out and one  
hour after she emailed counsel for a copy) and that it would not fully

address all of the facts (as is shown by the Motion). Counsel was preparing and did leave for a family gathering prior to receiving the actual Motion by email. After Filing that Response the Government filed a subsequent “notice of classified filing” and according to an email from the Court Security Office that Motion is entitled “Supplemental Memorandum.” Counsel for Petitioner does not have access to that document, which awaits her at the Secure Facility, has no idea of its contents and is therefore not addressing anything that might be in that supplemental memorandum related to the issues herein.

The issue that Counsel seeks to address herein is surprisingly not addressed by the Government in its Motion and that is the jurisdiction of the District Court to address issues raised in Petitioner’s *Supreme Court filing*. Counsel does not have the answer to this question although she spent some time on the question over the past few days and had hoped that the Government would explain in its Motion how the District Court could provide a remedy to an issue that occurred in a Supreme Court filing. In essence what the Government is asking this Court to do is to apply district court orders to a Supreme Court case. The Government should have the burden of establishing the District Court’s jurisdiction in

this uniquely extraordinary circumstance of attempting to have the District Court enjoin the Supreme Court- As it – as it was the in the United States Supreme Court itself where this document was unsealed.

As the Government noted in its Motion, the Petition for Original Habeas Corpus was filed in the Supreme Court on October 2, 2009. Petitioner filed the document under seal. The Government then reviewed the Petition and notified counsel and the Supreme Court that the Petition was declassified for public release. A copy of the Petition was attached to the notice by the Government that noted on each and every page that the document was “declassified for public release.” The history of that document after it was cleared is fully set out in Petitioner’s Response. When the Government later decided that it did not want certain of the information in the Petition released to the public instead of seeking relief from the Supreme Court, where the now declassified petition was filed, it instead has come back to the District Court for relief.

When Counsel for Petitioner filed her original habeas case she simultaneously filed a motion with the Supreme Court to ask that the Petition be filed under seal and it was the Supreme Court that sought a declassified version of the Petition for public filing. Counsel for Petitioner

believes that the proper course of action that the Government should have taken would have been to file a Motion with the Supreme Court asking to retroactively “protect” certain information that it “declassified for public release” and which it then later determined it wanted to protect.

Wherefore, for the reasons stated in Petitioners original response and this Supplement Counsel asks this Court to deny the Government’s “emergency” Motion.

Respectfully Submitted,

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November 25, 2009

*/s/ H. Candace Gorman*  
Counsel for Petitioner

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CERTIFICATE OF SERVICE

I, H. Candace Gorman, certify that I today caused a true and accurate copy of AL-GHIZZAWI'S Supplemental Response to the Government's Motion to be served upon the following persons by virtue of filing the above listed document with the electronic court service.

Steve Methany, Esq., Trial Attorney  
U.S. Department of Justice  
Civil Division, Federal Programs  
20 Massachusetts Ave.,NW,  
Room 7144  
Washington, DC 20530

November 25, 2009

/s/ H. Candace Gorman  
Counsel for Petitioner

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