

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

IN RE:

**PETITIONERS SEEKING
HABEAS CORPUS RELIEF
IN RELATION TO PRIOR
DETENTIONS AT
GUANTANAMO BAY**

Misc. No. 08-0444 (TFH)

Civil Action Nos.

02-cv-1130, 04-cv-1135, 04-cv-1144, 04-cv-1194, 04-cv-1227,
04-cv-1254, 05-cv-0023, 05-cv-0345, 05-cv-0490, 05-cv-0520,
05-cv-0526, 05-cv-0584, 05-cv-0586, 05-cv-0640, 05-cv-0665,
05-cv-0714, 05-cv-0723, 05-cv-0764, 05-cv-0765, 05-cv-0878,
05-cv-0833, 05-cv-0887, 05-cv-0888, 05-cv-0891, 05-cv-0998,
05-cv-1001, 05-cv-1009, 05-cv-1124, 05-cv-1237, 05-cv-1242,
05-cv-1243, 05-cv-1246, 05-cv-1311, 05-cv-1487, 05-cv-1493,
05-cv-1505, 05-cv-1509, 05-cv-1635, 05-cv-1667, 05-cv-1678,
05-cv-1714, 05-cv-1779, 05-cv-1806, 05-cv-1864, 05-cv-1894,
05-cv-2029, 05-cv-2104, 05-cv-2197, 05-cv-2216, 05-cv-2336,
05-cv-2367, 05-cv-2369, 05-cv-2384, 05-cv-2385, 05-cv-2386,
05-cv-2452, 05-cv-2458, 05-cv-2466, 05-cv-2479, 06-cv-1675,
06-cv-1677, 06-cv-1678, 06-cv-1679, 06-cv-1683, 06-cv-1687,
06-cv-1763, 06-cv-1768, 06-cv-1769, 08-cv-0864, 08-cv-0987,
08-cv-1104, 08-cv-1185, 08-cv-1221, 08-cv-1223, 08-cv-1628,
08-cv-1733

ORDER

On January 12, 2009, the Court ordered the government and the petitioners whose cases have been consolidated for coordination and management purposes in Miscellaneous Number 08-0444 to each file one consolidated brief addressing “the issue of whether the Court’s constitutionally-based jurisdiction over a habeas corpus petition filed by a foreign national detained at [the United States Naval Base at Guantanamo Bay, Cuba] as recognized in *Boumediene v. Bush*, 128 S.Ct. 2229 (2008), is eliminated by the petitioner’s transfer or release from Guantanamo Bay.” Order (Dkt. No. 79, 08-mc-0444) (Jan. 12, 2009). Each side filed a consolidated initial brief on February 6, 2009, and a consolidated reply brief on February 23, 2009.

Since those briefs were filed in February, the United States Court of Appeals for the District of Columbia Circuit has issued multiple opinions clarifying the habeas rights of the

Guantanamo Bay detainees. In light of those opinions, including *Kiyemba v. Obama*, 561 F.3d 509, 512 n.2 (D.C. Cir. 2009) (“the [Supreme] Court necessarily restored the status quo ante, in which detainees at Guantanamo had the right to petitioner for habeas under § 2241. *See Rasul v. Bush*, 542 U.S. 466, 124 S.Ct. 2686, 159 L.Ed.2d 548 (2004)”), the Court **ORDERS** each side to file one consolidated supplemental brief addressing whether petitioners’ habeas rights are statutory based and how such a statutory based habeas right affects the parties’ previously advanced arguments.

The consolidated supplemental briefs are due on or before Tuesday, November 10, 2009. Each side may submit a consolidated reply brief by Friday, November 20, 2009. Because these issues have already been briefed in part, the initial briefs shall not exceed 25 pages and the reply briefs shall not exceed 10 pages, without prior approval of the Court.

SO ORDERED.

October 9, 2009

/s/
Thomas F. Hogan
United States District Judge