

AUG 16 2012

**Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia**

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

**IN RE: GUANTANAMO BAY
DETAINEE CONTINUED ACCESS
TO COUNSEL**

Miscellaneous No. 12-398 (RCL)
Civil Action No. 05-1638 (CKK) ✓

ORDER

Several detainees held at the Guantanamo Bay Naval Base (“Guantanamo”) filed motions in their respective cases objecting to the Government’s contention that their counsel would no longer have access to detainee-clients under Judge Hogan’s Protective Order once those detainees’ habeas petitions had been dismissed with or without prejudice. Petitioner Rajeb Abu Ghanem (ISN 44) requested that the issue of counsel-access be transferred to Magistrate Judge Kay for resolution. *Ghanem, et al. v. Bush, et al.*, 05-cv-1638 (CKK), Mot. Dismiss [261] at 1, Jul. 13, 2012; Mot. Trans. [262] at 1, July 13, 2012. Respondents opposed petitioner Ghanem’s motion to transfer and cross-moved for all counsel-access cases to be transferred to a single District Court judge who would render a decision for the entire Court. *Ghanem, Opp. & Cross-Mot.* [264] at 2, July 26, 2012. This, respondents’ argued, would further judicial economy and the speedy resolution of this matter. *Id.* After consultations with counsel and judges in various cases, Judges Heuvell and Kollar-Kotelly agreed to transfer their related cases to the undersigned Judge for resolution. The above captioned miscellaneous case was opened and this Court entered a Scheduling Order. Sched. Order [7] at 1–2, July 27, 2012; *Ghanem*, Sched. Order [266] at 1–2. The Scheduling Order set a briefing schedule for motions in five related cases, including petitioner Ghanem.

In response to the Scheduling Order, petitioner Ghanem withdrew his Motion to Transfer the counsel-access issue to Magistrate Judge Kay. Withdrawal Mot. [265] at 1, July 27, 2012. Petitioner then filed a Motion to Confirm Judge Kollar-Kotelly's May 1 Scheduling Order or, in the alternative, to Reconsider transferring the case to the undersigned Judge. *Ghanem*, Mot. Confirm or Recons. [267] at 1, July 29, 2012. Petitioner Ghanem called the combination of cases a "batch process" and all but accused the undersigned Judge of prejudice in favor of respondents in Guantanamo cases. *Id.* at 1–3, n.1. Ignoring clear language in the Scheduling Order, petitioner also objected to his case being transferred to the undersigned Judge merely by the "*ipse dixit*" of the Judge. *Id.* Petitioner's argument was mooted by Judge Kollar-Kotelly's July 30, 2012, Minute Order¹ transferring petitioner Ghanem's Motion [261] for Voluntary Dismissal Without Prejudice and for Continued Access Pursuant to the Protective Order, and any attendant motions, including the respondents' Cross-Motion [264] to Refer for Coordinated Decision by a single District Court Judge and petitioner's Motion [267] to Confirm Briefing Order or to Reconsider its transfer to the undersigned Judge for resolution. The Minute Order also vacated Judge Kollar-Kotelly's earlier briefing scheduled and ordered the parties to adhere to the July 27 Scheduling Order.

Instead of adhering to the Scheduling Order and submitting a Reply to respondents' Combined Opposition [12] to Motions for Continued Counsel Access Pursuant to the Protective Order, respondent moved to Strike the respondents' Opposition. Mot. Strike [15] at 1, Aug. 8, 2012. Petitioner argued that because his case had never been transferred, the combined motion did not apply to his case and the undersigned Judge had no jurisdiction to rule on any of petitioner Ghanem's motions. *Id.* However, as noted, Judge Kollar-Kotelly transferred the case

¹ As noted in the Minute Order the July 30 Minute Order did not appear on the electronic docket until August 15, 2012.

by Minute Order to the undersigned Judge on July 30. Therefore, it is hereby

ORDERED that respondents' Cross-Motion [264] to Refer for Coordinated Decision by a single District Court Judge is hereby **GRANTED**;

It is **FURTHER ORDERED** that petitioner's Motion [267] to Confirm Briefing Order or to Reconsider the Transfer of petitioner's case to the undersigned Judge for resolution is **DENIED**;

It is **FURTHER ORDERED** that petitioner's Motion [15] to Strike respondents' Combined Opposition to Motions for Continued Counsel Access Pursuant to the Protective Order is **DENIED**;

It is **FURTHER ORDERED** that petitioner adhere to the July 27, 2012, Scheduling Order. Petitioner will have until 10 AM on Friday, August 17, 2012, to file a Reply to the respondents' combined Opposition.

SO ORDERED.

Signed by Royce C. Lamberth Chief Judge, on August 16, 2012.