

March 28, 2007

The Honorable William K. Suter  
Clerk of the Court  
Supreme Court of the United States  
1 First St., NE  
Washington, DC 20543

Re: No. 06-1169 (*Hamdan v. Gates* and *Khadr v. Bush*)

Dear General Suter:

I serve as Counsel of Record to the petitioners in this case and ask that you distribute this letter to the Justices.

The government's brief in opposition in this case is presently due on March 29, 2007. We have been advised today by the Office of the Solicitor General that they do not currently intend to seek an extension of that time. Accordingly, the Court could consider the petition in this case at its Conference on March 30, 2007, together with the petitions in Nos. 06-1195, *Boumediene v. United States*, and 06-1196, *Al Odah v. United States*.

We raise the issue because there has been a significant development since the Court considered and denied the motion to expedite consideration in this case: the guilty plea of David Hicks, which is relevant in two important respects. First, in opposing expedition in this case, the Solicitor General relied heavily on his contention that the Court could decide the important challenges to the military commission scheme in this case in the context of *Al Odah* and *Boumediene* because Mr. Hicks is a party to those cases.<sup>1</sup> However, Mr. Hicks has now entered a guilty plea that, by resolving his case, presumably will preclude this Court's consideration of the military commission matters in the context of *Al Odah* and *Boumediene*. See William Glaberson, *Plea of Guilty from*

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<sup>1</sup> See, e.g., Resp't Opp. Mo. Exp. at 5 ("There is nothing special about petitioners' status as detainees awaiting military commissions that warrants a 'joint' petition in these separate cases, as evidenced by the fact that another party to the *Al Odah* and *Boumediene* cases, David Hicks, is also awaiting a military commission and did not join this joint petition but instead will be included in the petitions to be filed by the remaining parties to those cases on March 5."); id. at 7-8 ("If this Court wishes to consider how the MCA applies to detainees who, like petitioners, are facing trial by military commission, it can do so without accepting review in this case. As petitioners note (Motion at 2), the *Al Odah* case already includes a detainee, David Hicks, who is facing trial by military commission. Petitioners do not explain why Hicks cannot raise the issues that they seek to raise.").

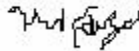
*Detainee in Guantanamo*, N.Y. Times, March 27, 2007, at A1. For that reason, only this Petition presents the Court with the opportunity to fully resolve at this time the challenges to the status of the Guantanamo detainees.

Second, the plea agreement underscores the need for this Court's review now, not after potentially dozens of military commission trials have taken place. These trials are taking place under the D.C. Circuit's legal holding - which creates an extraordinary pressure to plead guilty - that the Constitution of the United States offers no protection whatsoever to detainees in these trials.

One other development merits noting: the United States Court of Appeals for the District of Columbia Circuit has entered an order staying proceedings in the *Hamdan* case pending the disposition of this Petition for certiorari. Accordingly, there is no prospect of any prompt development in the Court of Appeals on the questions presented by this Petition.

Petitioner accordingly respectfully requests that the petition for certiorari in this case be granted together with the petitions in *Al Odah* and *Boumediene*.

Respectfully submitted,



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cc The Solicitor General