

Date: 7/26/07
Signature: [Handwritten Signature]

ORAL ARGUMENT SCHEDULED FOR SEPTEMBER 17, 2007

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

SAIFULLAH PARACHA,)
)
 Petitioner,)
)
)
)
 v.)
)
)
 ROBERT M. GATES,)
)
)
 Respondent.)

Case No. 06-1038

**PETITIONER’S MOTION TO VACATE BRIEFING SCHEDULE
AND WITHDRAW BRIEF IN LIGHT OF BISMULLAH**

On July 17, 2007, Petitioner lodged his opening brief in this case together with an unopposed motion for leave to file his brief a day out of time. On July 20, 2007, the Court issued its decision in *Bismullah v. Gates*, Nos. 06-1197, 06-1397. In *Bismullah*, this Court clarified, among other things, the record to be considered and the scope of review in cases brought under the Detainee Treatment Act of 2005 (“DTA”). Among other things, the Court held that the record is to include all “Government Information” with respect to a petitioner.

Petitioner's brief framed and addressed the issues in this case – including the record and scope of review – before the Court's decision in *Bismullah*. *Bismullah* sufficiently refocuses the issues to be addressed in this case as to render Petitioner's brief obsolete.

A complete record is a *sine qua non* of review. The record to be considered by the Court in this case will not be complete until Respondent has produced all Government Information with respect to Petitioner. Moreover, it is Petitioner's understanding that Respondent may soon seek clarification from the Court of Respondent's obligation under *Bismullah* to produce "Government Information." If Respondent seeks clarification from the Court on that issue, Petitioner will seek to be heard on that issue as well.

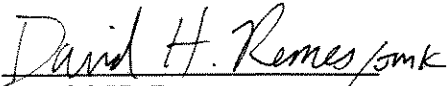
Petitioner respectfully submits that it would be premature, inefficient, and wasteful for the parties to brief and argue this case before Respondent has produced the Government Information. Petitioner therefore respectfully requests that the Court (a) vacate the briefing schedule for this case set forth in the Court's order of April 9, 2007; (b) allow Petitioner to withdraw his brief and unopposed motion for leave to file one day out of time; and (c) set a new

briefing schedule upon receiving joint notice from the parties that Respondent's production of Government Information is substantially complete.

Respondent has authorized Petitioner to represent that Respondent does not oppose Petitioner's motion to withdraw his brief and unopposed motion for leave but does not otherwise consent to this motion and will address in a separate filing all issues raised with respect to further briefing and argument.

WHEREFORE, Petitioner respectfully requests that the Court issue an order granting the relief requested herein.

Respectfully submitted,


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July 26, 2007

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CERTIFICATE OF SERVICE

I hereby certify that today, July 26, 2007, I served the foregoing **Motion to Vacate Briefing Schedule and Withdraw Brief in Light of Bismullah** on the following by filing an original and six copies with the Court Security Officer:

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