

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

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GULED HASSAN DURAN (ISN 10023),	:	
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Petitioner,	:	
	:	
v.	:	Case No. 16-cv-2358 (RBW)
	:	
JOSEPH R. BIDEN, JR., <i>et al.</i> ,	:	
	:	
Respondents.	:	
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**MOTION FOR STATUS CONFERENCE**

Petitioner Guled Hassan Duran, by and through his undersigned counsel, respectfully moves for a status conference before the Court. Petitioner requests an in-person conference to address the way forward toward the expeditious resolution of this habeas case on the merits, including his motion to compel production of discovery that has been pending for more than three years. Petitioner requests that the Court close a portion of the proceeding to address certain classified information. The parties have met and conferred, and Respondents reserve their position regarding this motion. Petitioner’s motion should be granted for good cause as follows.

**Argument**

The prison at Guantanamo has been open for more than 20 years. Petitioner was captured more than 18 years ago, in March 2004, while transiting through Djibouti to undergo surgery for an abdominal wound that was not healing properly. He disappeared into secret CIA detention, where, among other torture and abuse that he suffered, medical care for his wound was withheld and used as leverage during his interrogations. More than 16 years ago, in September 2006, Petitioner was transferred to Guantanamo, where he has been held without charge or trial, and

where he continues to suffer from his wound and the aftereffects from the long period of neglect. Since his capture, Petitioner has required surgeries and other urgent medical interventions, including to repair his wound and treat a life-threatening intestinal blockage. *See, e.g.*, ECF Nos. 11-1 (redacted); 114-1, at 2-4 (redacted). Indeed, Petitioner had his most recent medical emergency and was hospitalized at Guantanamo two weeks ago. Respondents did not inform Petitioner's counsel (or the Court) about the incident until his counsel learned about it separately and then inquired with Respondents' counsel. Respondents have also since refused to allow Petitioner's court-appointed medical expert to speak directly with medical officials at Guantanamo, including the Chief Medical Officer, about the incident or Petitioner's prognosis. *See* ECF Nos. 72; 75.<sup>1</sup>

Six years ago, on November 5, 2016, Petitioner filed this habeas case to challenge the factual and legal basis for his indefinite detention at Guantanamo. More than three years ago, in September 2019, Petitioner filed a motion to compel production of certain discovery pursuant to both the Suspension Clause and the Due Process Clause of the Constitution. *See* ECF Nos. 73; 114 (redacted). Respondents filed a cross-motion for an exception to disclosure. *See* ECF Nos. 78; 109 (redacted). Those motions were fully briefed and argued more than two years ago, in October 2020. *See* ECF No. 105. In response to a further order of the Court, *see* ECF No. 112 (redacted), Respondents produced additional materials to Petitioner and other materials to the Court *ex parte*. *See* ECF Nos. 115; 121. The parties filed supplemental briefing, which concluded in April 2021, more than a year and a half ago. *See* ECF Nos. 124; 128. The case has

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<sup>1</sup> The Chief Medical Officer position was created by Section 1046 of the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, 133 Stat. 1198, 1586-88 (Dec. 20, 2019), for the purpose of providing improved medical care to Guantanamo detainees, including specifically by ensuring access to individuals, information, and assistance outside of the military chain of command at Guantanamo.

since been effectively stayed pending the Court's resolution of the parties' outstanding discovery-related motions.

The Supreme Court long ago held that “the costs of delay can no longer be borne by those who are held in custody” at Guantanamo, and “[t]he detainees in these cases are entitled to a prompt habeas corpus hearing.” *Boumediene v. Bush*, 553 U.S. 723, 795 (2008); *see also* 28 U.S.C. § 2243 (requiring prompt disposition of habeas petitions). The Court also held that the “duration of the detention and the reasons for it bear upon the precise scope of the inquiry,” and “the writ must be effective.” 553 U.S. at 783; *see also Rasul v. Bush*, 542 U.S. 466, 488 (2004) (Kennedy, J., concurring) (“[A]s the period of detention stretches from months to years, the case for continued detention to meet military exigencies becomes weaker.”).

Here, in addition to the extended length of time the discovery issues have been pending, there have been at least two important developments that bear on the scope of the Court's habeas review and underscore the need for the expeditious resolution of this case on the merits. First, Petitioner was approved for transfer from Guantanamo through an administrative Periodic Review Board (“PRB”) conducted in July 2021.<sup>2</sup> In November 2021, the PRB's decision was confirmed by a Review Committee, comprised of the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Chairman of the Joint Chiefs of Staff, *see* Exec. Order 13,567, § 9(d), 76 Fed. Reg. 13,277 (Mar. 7, 2011), which concluded unanimously that Petitioner's “continued law of war detention is no longer necessary to protect against a continuing significant threat to the security of the United States.” Accordingly, the government stated that “vigorous efforts will be

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<sup>2</sup> The PRB decision is available at: [http://www.prs.mil/Portals/60/Documents/ISN10023/Subsequent%20Review%202/211110\\_UPR\\_ISN10023\\_SH2\\_FINAL\\_DETERMINATION.pdf](http://www.prs.mil/Portals/60/Documents/ISN10023/Subsequent%20Review%202/211110_UPR_ISN10023_SH2_FINAL_DETERMINATION.pdf)

undertaken to identify a suitable transfer location for [Petitioner] outside the United States, subject to appropriate security and humane treatment assurances.” The PRB decision was not disclosed to Petitioner or the public until January 2022. In the last year, however, Respondents have failed to undertake sufficient efforts to transfer Petitioner, and he remains in detention at Guantanamo without foreseeable end.

Second, as explained, Petitioner’s serious, long-term medical problems have recently worsened, and may continue to deteriorate without further, sustained therapeutic care—including perhaps additional surgical interventions—that medical officials at Guantanamo are not equipped to manage adequately. To ensure consistent medical treatment, Petitioner must be transferred to a country with the capability to tend to his serious medical issues related to his wound, perhaps for the duration of his life.

In sum, as the parties appear to agree, Petitioner must be promptly transferred from Guantanamo. But that is not reasonably foreseeable without judicial intervention. Accordingly, because he is entitled as a matter of law to the prompt disposition of this case on the merits, Petitioner respectfully submits that the Court should hold a hearing to address the way forward toward the expeditious resolution of the case. The Court should also close a portion of the proceeding to address certain classified information.

**Conclusion**

The motion should be granted accordingly.

Dated: November 7, 2022

Respectfully submitted,

/s/ J. Wells Dixon

J. Wells Dixon (Pursuant to LCvR 83.2(f)<sup>3</sup>)  
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*Counsel for Petitioner*

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<sup>3</sup> Counsel, a member of the New York Bar, previously filed a notice of appearance and certification of pro bono representation pursuant to Local Civil Rule 83.2(g), *see* ECF No. 3, which has since been renumbered as Local Civil Rule 83.2(f). *See* Order, Change to Local Rules 83.2 and 44.1 (D.D.C. May 26, 2022).

**CERTIFICATE OF SERVICE**

I hereby certify that on November 7, 2022, I caused the foregoing motion to be filed with the Court and served on counsel for all parties via the Court's CM/ECF system.

/s/ J. Wells Dixon  
J. Wells Dixon