

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

DAVID M. HICKS,

Petitioner,

v.

GEORGE WALKER BUSH,
President of the United States,
et al.,

Respondents.

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) **Civil Action No. 1:02-CV-00299 (CKK)**
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**RESPONDENTS' UNOPPOSED MOTION FOR
EXTENSION OF TIME TO RESPOND TO PETITIONER'S
MOTION FOR FILING AFFIDAVIT UNDER SEAL**

Respondents hereby move to extend until November 22, 2004, the time to respond to petitioner's Motion for Filing Affidavit Under Seal, and in support state as follows:

1. On November 1, 2004, petitioner filed a motion for partial summary judgment, and in conjunction with that filing, also submitted an affidavit of petitioner under seal, along with a "Motion for Filing Affidavit Under Seal." In the motion, however, petitioner alleges that the affidavit is not classified and urges that the affidavit be unsealed.

2. A response to the Motion for Filing Affidavit Under Seal is due on or about November 15, 2004.

3. As indicated in the Motion for Filing Affidavit Under Seal, the affidavit at issue appears to have been generated or released in connection with military commission proceedings pertaining to petitioner.

4. Counsel for respondents are still in the process of ascertaining whether a formal determination regarding the classification of the affidavit was made in the military commission

proceeding, or, if not, whether the affidavit is in fact classified or not suitable for public release.

Cf. Nov. 8, 2004 Amended Protective Order ¶ 46 (materials filed by petitioners remain under seal pending classification determination by agency involved). Counsel seek a brief extension of one-week to obtain such information and respond to petitioner's request to have the affidavit unseal. (Respondents are, however, filing their response to petitioner's motion for partial summary judgment today.)

5. Counsel for respondents conferred by telephone with counsel for petitioners, who do not oppose this motion for an extension of time.

Wherefore, respondents respectfully request that the time for response to the Motion for Filing Affidavit Under Seal be extended through November 22, 2004. A proposed order is submitted herewith.

DATED this 15th day of November, 2004.

Respectfully submitted,

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