

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

DAVID M. HICKS,

Petitioner,

v.

Civ. Act. No. 1:02-cv-00299-CKK

GEORGE W. BUSH, President of the United
States; DONALD RUMSFELD, United States
Secretary of Defense; GORDON R. ENGLAND,
Secretary of the United States Navy; JOHN D.
ALTENBURG, JR., Appointing Authority for
Military Commissions, Department of Defense;
Brigadier General JAY HOOD, Commander, Joint
Task Force, Guantanamo Bay, Cuba, and Colonel
BRICE A. GYURISKO, Commander, Joint
Detention Operations Group, Joint Task,
Guantanamo Bay, Cuba

Respondents, all sued in their
individual and official capacities.

**PETITIONER’S UNOPPOSED MOTION FOR EXTENSION
OF TIME TO REPLY TO RESPONDENTS’ SUMMARY JUDGMENT RESPONSE**

Pursuant to Federal Rule of Civil Procedure 6(b), Petitioner David M. Hicks, by his attorneys, respectfully files this unopposed motion for this Court to grant him an extension of time to reply to Respondents’ Response to Petitioner’s Brief in Opposition to Respondents’ Motion to Dismiss and in Support of Petitioner David M. Hicks’s Cross-Motion for Partial Summary Judgment (Document No. 120) (“Summary Judgment Response”) until a reasonable time after this Court rules as to whether the Respondents’ Response and Motion to Dismiss or for Judgment as a Matter of Law with Respect to Challenges to the Military Commission Process (Document No. 88) (“Motion to Dismiss”) shall be held in abeyance pending final resolution of all appeals in *Hamdan v. Rumsfeld*,

No. 04-CV-1519, 2004 WL 2504508 (D.D.C. Nov. 8, 2004). In support of his motion, Hicks states as follows:

1. David M. Hicks is an Australian national who has been detained by Respondents at United States Naval Station Guantanamo Bay, Cuba (“Guantanamo Bay”), for nearly three years. On February 19, 2002, while in the custody of Respondents at Guantanamo Bay, Hicks filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Subsequently, on March 18, 2002, Hicks filed his First Amended Petition (Document No. 25). On September 28, 2004, Hicks filed his Second Amended Petition (Document No. 77).

2. On October 14, 2004, Respondents filed their Motion to Dismiss (Document No. 88).

3. On November 1, 2004, Hicks filed his Brief in Opposition to Respondents’ Motion to Dismiss and in Support of Petitioner David M. Hicks’s Cross-Motion for Partial Summary Judgment (Document Nos. 102/103) (“Motion for Partial Summary Judgment”).

4. On November 15, 2004, Respondents filed their Summary Judgment Response (Document No. 120).

5. On November 18, 2004, this Court entered an Order to Show Cause Regarding Respondents’ Motion to Dismiss or for Judgment as a Matter of Law with Respect to Challenges to the Military Commission Process (Document No. 123) (“Order to Show Cause”). The Order to Show Cause recognized that certain claims and defenses raised by both parties in relation to the Respondents’ Motion to Dismiss were similar to those recently resolved by Judge James Robertson in *Hamdan v. Rumsfeld*, No. 04-CV-1519, 2004 WL 2504508 (D.D.C. Nov. 8, 2004), in which the respondents have since filed a notice of appeal seeking expedited review by the Court of Appeals. Accordingly, the Order to Show Cause directed the parties in this case to file written submissions on

or before November 29, 2004, to show cause why the Motion to Dismiss should not be held in abeyance pending final resolution of all appeals in *Hamdan v. Rumsfeld*.

6. In light of the issues common to both the Respondents' Motion to Dismiss and Hicks's Motion for Partial Summary Judgment, and in the interests of judicial economy and efficient administration of justice, Hicks respectfully makes this request for an extension of time to file a reply memorandum in response to the Respondents' Summary Judgment Response until a reasonable period of time after this Court rules on the abeyance issue raised by the Order to Show Cause.

7. This motion for extension will not cause any undue delay. The *Hamdan* appeal is under an expedited briefing schedule, which is scheduled for completion on January 10, 2005.

8. Neither party will be prejudiced by this request. Respondents have agreed not to oppose Hicks' request for an extension until a reasonable period of time after this Court rules on the abeyance issue.

WHEREFORE, Mr. Hicks respectfully requests that this Court enter an order granting Petitioner Hicks an extension of time to file his reply memorandum until a reasonable period of time after the Court decides the issue raised in the Order to Show Cause as to whether the Motion to Dismiss shall be held in abeyance pending final resolution of all appeals in *Hamdan v. Rumsfeld*.

Dated: November 19, 2004

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Respectfully submitted,
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ORDER

Having considered Petitioner's Agreed Motion for Extension of Time to Reply to Respondents' Summary Judgment Response, it is hereby

ORDERED that Petitioner's Motion is GRANTED. Petitioner shall file and serve his reply to the Respondent's Summary Judgment Response (Document No. 120) on or before such date as this Court determines reasonable upon ruling on the abeyance issue raised by the Order to Show Cause (Document No. 123).

Dated: _____

JOYCE HENS GREEN
United States District Judge