

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOURAD BENCHELLALI, et al.,

Petitioners,

v.

GEORGE WALKER BUSH, et al.,

Respondents.

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)
) CASE NO. 1:04-cv-01142 (RJL)
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)
) MOTION TO ISSUE WRIT OF
) *HABEAS CORPUS* OR ORDER TO
) SHOW CAUSE
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MOTION TO ISSUE WRIT OF *HABEAS CORPUS* OR ORDER TO SHOW CAUSE

Petitioner Ridouane Khalid respectfully submits this motion requesting the Court to issue forthwith a writ of *habeas corpus* or order to show cause why the writ should not be granted, returnable by Respondents in three days, pursuant to 28 U.S.C. § 2243. The grounds for said motion are contained in the memorandum of points and authorities that accompanies this motion.

Dated: New York, New York
August 26, 2004

Respectfully submitted,

Counsel for Petitioners:

/s/ Stacey Becker
Stacey Becker*
U.S. District Court for the
District of Columbia Bar No. 480805
CLIFFORD CHANCE US LLP
2001 K Street NW
Washington, DC 20004-2128
Tel: (202) 912-5000
Fax: (202) 912-6000

John Carroll
Warren Feldman
James Hosking
Wesley R. Powell
Tina M. Foster
Christopher Land
CLIFFORD CHANCE US LLP
31 West 52nd Street
New York, NY 10019
Tel: (212) 878-8000
Fax: (212) 878-8375

Michael Ratner
Jeffrey E. Fogel
Barbara Olshansky
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, New York 10012
(212) 243 3805; (212) 614-6499 (FAX)

Counsel for Petitioners

* Ms. Becker appears as local counsel for all attorneys.

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

<p>MOURAD BENCHELLALI, <i>et al.</i>,</p> <p>Petitioners,</p> <p>v.</p> <p>GEORGE WALKER BUSH, <i>et al.</i>,</p> <p>Respondents.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CASE NO. 1:04-cv-01142 (RJL)</p> <p>MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO ISSUE WRIT OF <i>HABEAS CORPUS</i> OR ORDER TO SHOW CAUSE</p>
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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION TO ISSUE WRIT OF *HABEAS CORPUS* OR ORDER TO SHOW CAUSE**

Petitioner Ridouane Khalid through his undersigned counsel, relies on the following points and authorities in support of his motion requesting the Court to issue forthwith a writ of *habeas corpus* pursuant to 28 U.S.C. § 2243, returnable in three days, in order to proceed to a hearing on the merits of his Petition for Writ of *Habeas Corpus*. Alternatively, Petitioner Khalid seeks the issuance forthwith of an order to show cause why a writ of *habeas corpus* should not be granted returnable in three days. In support of his motion, Petitioner states the following:

1. Petitioner Khalid, a citizen of the Republic of France, is a prisoner at Camp Delta, Guantanamo Bay Naval Station, Guantanamo Bay, Cuba (“Guantanamo”). He has been imprisoned by the United States for nearly two and a half years without charge and without access to counsel, court or due process. He is being held virtually *incommunicado* in Respondents’ unlawful custody.
2. Aside from an unsupported assertion that all detainees at Guantanamo are “enemy combatants,” Respondents have not advanced any justification for the arrest, transportation and incarceration of

Petitioner. According to the Deputy Secretary of Defense Paul Wolfowitz, each detained petitioner “has been determined to be an enemy combatant through multiple levels of review by officers of the Department of Defense.” Exhibit A, July 7, 2004 Order Establishing Combatant Status Review Tribunal (“Order Establishing Tribunals”), subsection (a).

3. On July 6, 2004, undersigned counsel filed a Petition for Writ of *Habeas Corpus* on behalf of Petitioner Khalid pursuant to 28 U.S.C. §§ 2241 and 2242.¹ Petitioner Khalid respectfully refers the Court to the Petition for Writ of *Habeas Corpus*, which more fully sets forth the facts relating to his unlawful detention. The Petition for Writ of *Habeas Corpus* seeks to enforce Petitioner’s right, recognized by the Supreme Court in *Rasul v. Bush*, to a judicial determination of the legality of his detention. *Rasul v. Bush*, No. 03-334, 542 U.S. ___, 124 S. Ct. 2686, 2699 (U.S. June 28, 2004).
4. In bringing this motion, Petitioner seeks to enforce provisions of the *habeas corpus* statute, which reflect the importance of proceeding with *habeas* review expeditiously. Pursuant to 28 U.S.C. § 2243, “a court ... entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled hereto.” The writ or order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243.
5. Petitioner requests that, pursuant to 28 U.S.C. § 2243, Respondents “make a return certifying the true cause of the detention” forthwith.
6. Having incarcerated Petitioner for approximately two and a half years, and having purportedly made multiple internal determinations to justify this incarceration, Respondents cannot claim to require more time to gather facts. On information and belief, the government has interrogated the

¹ The Petition for Writ of *Habeas Corpus* filed by counsel on July 6, 2004 also included Petitioners Mourad Benchallali and Nizar Sassi. Since that time, Petitioners Benchallali and Sassi have been repatriated to France and are no longer being detained in Guantanamo. Petitioners Benchallali and Sassi do not join in the present motion.

Petitioner on numerous occasions and is well aware of the factual bases that allegedly support the imprisonment of the Petitioner.

WHEREFORE, for the above stated reasons and for any other reason that may become known to the Court, Petitioner Khalid respectfully requests the Court to issue an order to show cause to the defendants, returnable in three days.

Dated: New York, New York
August 26, 2004

Respectfully submitted,

Counsel for Petitioners:

Stacey Becker*
U.S. District Court for the
District of Columbia Bar No. 480805
CLIFFORD CHANCE US LLP
2001 K Street NW
Washington, DC 20004-2128
Tel: (202) 912-5000
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