

On February 3, 2005, Respondents moved for certification for appeal of Judge Green's January 31 interlocutory orders and for a stay of proceedings pending appeal. Judge Green certified her Order on the motion to dismiss the habeas petitions but denied certification of her Order granting Petitioners access to the unredacted factual returns. Judge Green explained that "the Court

does not find that the Court's January 31, 2005 Order Granting November 18, 2004 Motion for Access to Unredacted Factual Returns . . . involves controlling questions of law as to which there is substantial ground for difference of opinion." Order Granting in Part and Denying in Part Respondents' Motion for Certification of January 31, 2005 Orders and for Stay, at 2 (emphasis in original). Judge Green neither certified for appeal nor stayed her Order granting Petitioners' counsel access to the unredacted factual returns.

On February 4, 2005 and then again on February 9, 2005, counsel for Petitioners asked Respondents to provide them with timely access to the unredacted factual returns. To date, Respondents have not responded to these requests.

Prompt access by counsel to the unredacted factual returns is crucial because each Guantánamo detainee will soon be brought before an Administrative Review Board ("ARB"), a military administrative panel that will determine whether the detainee is "dangerous" and whether he may be released to his home country. Although counsel may not be present at the hearings, they may make written submissions to the ARB panels on their clients' behalf. Without access to information in the unredacted factual returns, however, counsel in the instant matter is unable to prepare informed submissions that may be of use to the ARB panels. Because the ARB hearings occur only once a year and because Respondents have refused to provide any notice of the date of the hearing for any of the Guantánamo detainees, counsel's chief concern is that delay in access to the unredacted factual returns will effectively deny Petitioners a realistic opportunity to earn their speedy release from prison. On information and belief, ARB hearings have already commenced for detainees at Guantánamo.

CONCLUSION

For the reasons stated above, Petitioners ask this Court to compel Respondents to obey Judge Green's January 31, 2005 Order and to provide counsel with immediate access to the unredacted factual returns in this matter.

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Respectfully submitted,

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/s/

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