

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

***In re Guantanamo Detainee Cases***  
***(except 04-CV-1519 (JR),***  
***04-CV-1142 (RJL), and***  
***04-CV-1166 (RJL)***

**Civil Action Nos.**

**02-CV-0299 (CKK), 02-CV-0828 (CKK),  
02-CV-1130 (CKK), 04-CV-1135 (ESH),  
04-CV-1136 (JDB), 04-CV-1137 (RMC),  
04-CV-1144 (RWR), 04-CV-1164 (RBW),  
04-CV-1194 (HHK), 04-CV-1227 (RBW),  
04-CV-1254 (HHK), 04-CV-1897 (RMC),  
04-CV-1937 (PLF), 04-CV-2022 (PLF),  
04-CV-2035 (GK), 04-CV-2046 (CKK),  
04-CV-2215 (RMC), 05-CV-22 (JR),  
05-CV-23 (RWR)**

## ORDER

Upon consideration of respondents' Motion for Certification of January 31, 2005  
Interlocutory Orders for Appeal Pursuant To 28 U.S.C. § 1292(b) and to Stay Proceedings  
Pending Appeal, it is hereby

ORDERED that respondents' motion is GRANTED.

FURTHER ORDERED that the Court finds that its January 31, 2005 Order (and Memorandum Opinion) Denying in Part and Granting in Part Respondents’ Motion to Dismiss or for Judgment as a Matter of Law and Requesting Briefing on the Future Proceedings in These Cases, and its January 31, 2005 Order Granting November 8, 2004 Motion to Designate “Protected Information” and Granting November 18, 2004 Motion for Access to Unredacted Factual Returns (collectively, the “January 31 Orders”), entered in Nos. 02-CV-0299, 02-CV-0828, 02-CV-1130, 04-CV-1135, 04-CV-1136, 04-CV-1137, 04-CV-1144, 04-CV-1164, 04-CV-1194, 04-CV-1227, and 04-CV-1254, involve controlling questions of law as to which there is substantial ground for difference of opinion, such as whether petitioners possess enforceable

rights under the Fifth Amendment to the United States Constitution; whether, assuming arguendo that petitioners possess such rights, the Combatant Status Review Tribunals constitute process that is constitutionally adequate under the circumstances; whether certain of the petitioners possess rights under the Third Geneva Convention that are judicially enforceable; and whether the Executive's determinations concerning the appropriate scope of disclosure of classified national security information are judicially reviewable. It is

FURTHER ORDERED that the Court finds that an immediate appeal of the January 31 Orders may materially advance the ultimate termination of this litigation. It is

FURTHER ORDERED that the January 31 Orders are hereby CERTIFIED for interlocutory appeal pursuant to 28 U.S.C. § 1292(b). It is

FURTHER ORDERED that, pursuant to 28 U.S.C. § 1292(b), the January 31 Orders shall be deemed amended to include and reflect the findings above.

FURTHER ORDERED that proceedings in the above-captioned cases are stayed pending resolution of all appeals in this matter, except that briefing and resolution of respondents' motions to dismiss the claims of petitioners who have been transferred out the custody of the United States shall not be stayed. This stay shall not prevent entry of the November 8, 2005 Amended Protective Order and Procedures for Counsel Access To Detainees at the United States Naval Base In Guantanamo Bay, Cuba, and the filing of factual returns in Nos. 04-CV-2215, 05-CV-22, and 05-CV-23.

IT IS SO ORDERED.

February \_\_\_\_, 2005

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JOYCE HENS GREEN  
United States District Judge