

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DAVID M. HICKS,

Petitioner,

V.

Civil Action No. 02-CV-0299 (CKK)

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

Respondents.

**RESPONDENTS' FACTUAL RETURN TO PETITION FOR WRIT OF HABEAS
CORPUS BY PETITIONER DAVID M. HICKS**

Respondents hereby submit, as explained herein, the record of proceedings before the Combatant Status Review Tribunal pertaining to petitioner David M. Hicks as a factual return to petitioner's petition for writ of habeas corpus. See Exhibit A. For the reasons explained in the record, petitioner David M. Hicks has been determined to be an enemy combatant. Accordingly, petitioner David M. Hicks is lawfully subject to detention pursuant to the President's power as Commander in Chief or otherwise, and is being detained.

The portion of the record suitable for public release is attached hereto, and the remaining portions of the record, including information that is classified or not suitable for public release, will be filed under seal and made available to petitioner's counsel upon the entry of a protective order governing such information by the Court, and the issuance of security clearances to petitioner's counsel.

Respondents reserve the right to rely, in addition to the complete record, on legal grounds for petitioner David M. Hicks's continued detention, presented in briefing opposing the petition for writ of habeas corpus in accordance with a schedule determined by the Court.

Dated: October 6, 2004

Respectfully submitted,

PETER D. KEISLER
Assistant Attorney General

KENNETH L. WAINSTEIN
United States Attorney

BRIAN D. BOYLE
Principal Deputy Associate Attorney General

DAVID B. SALMONS
Assistant to the Solicitor General

DOUGLAS N. LETTER
Terrorism Litigation Counsel

ROBERT D. OKUN
D.C. Bar No. 457-078
Chief, Special Proceedings Section
555 Fourth Street, N.W.
Room 10-435
Washington, D.C. 20530
(202) 514-7280

/s/ Preeya M. Noronha
JOSEPH H. HUNT (D.C. Bar No. 431134)
VINCENT M. GARVEY (D.C. Bar No. 127191)
TERRY M. HENRY
PREEYA M. NORONHA
ROBERT J. KATERBERG
Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W. Room 7144
Washington, DC 20530
Tel: (202) 514-4107
Fax: (202) 616-8470

Attorneys for Respondents