

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

RICHARD L. KAMMEN,)	
Petitioner,)	
v.)	
)	
GEN. JAMES N. MATTIS)	
in his official capacity as SECRETARY OF)	
DEFENSE, and)	No.1:17-cv-03951-TWP-DML
)	
HARVEY RISHIKOF,)	
in his official capacity as CONVENING)	
AUTHORITY, DEPARTMENT OF)	
DEFENSE, OFFICE OF MILITARY)	
COMMISSIONS, and)	
)	
COL. VANCE H. SPATH (AIR FORCE), in)	
his official capacity as MILITARY JUDGE,)	
MILITARY COMMISSIONS TRIAL)	
JUDICIARY, DEPARTMENT OF)	
DEFENSE,)	
Respondents.)	

ENTRY FOLLOWING INITIAL HEARING

This matter comes on for an initial hearing on the Petitioner’s Petition for Writ of Habeas Corpus and Motion for Declaratory Judgment. ([Filing No. 6.](#)) The Petitioner Richard Kaman appeared in person and with counsel, Robert Hammerle and Jessie A. Cook. The Respondents appeared by Jeffrey Preston, Assistant United States Attorney.

The Petitioner requests relief from the military commission’s order of November 1, 2017 purporting to compel him, under threat of contempt, to travel to Virginia and appear there on November 3, 2017 and on November 6, 2017 and, further, asserts that this Court has jurisdiction to enter a preliminary Order to preserve the status quo pending a hearing

on the merits of the Petition for Writ of Habeas Corpus and Motion for Declaratory Judgment.


Having heard the parties' arguments and duly considering the same, the Court now finds that it has jurisdiction of the immediate controversy pursuant to *Hensley v. Municipal Court San Jose-Milpitas Judicial Dist.*, 411 U.S. 345, 351 (1973) and authority to stay the proceedings in order to maintain the status quo pending further hearing [*United States v. United Mine Workers*, 330 U.S. 258, 292-293 (1947)(district court had power to preserve the status quo while determining its own jurisdiction to rule on the merits of declaratory judgment action)].

IT IS THEREFORE ORDERED:

1. That any purported requirement of the military commission hearing the case of *United States v. Al-Nashiri*, or the Military Commission Judge, Colonel Vance Spath, that Mr. Kammen travel to Virginia on November 3, 2017 and/or on November 6, 2017 or on any future date, is stayed pending hearing in this Court.
2. That in the event that a writ of attachment or a warrant issues from a military commission in Guantanamo Bay for Mr. Kammen, the writ of attachment or warrant will be held in abeyance and not served or otherwise executed until this Court holds a hearing on the merits.
3. This Order will issue to the U.S. Marshal for the Southern District of Indiana and be distributed by the U.S. Marshal of this District to the U.S. Marshals in all other districts.
4. That the Government shall file a Response to the Petitioner's Petition for Writ of Habeas Corpus and Motion for Declaratory Judgment on or before **November 24, 2017**. Thereafter, the Petitioner shall have Twenty One (21) days within which to reply to the

Government's Response. Upon completion of briefing, the Court will determine whether an evidentiary hearing is required.

Date: 11/3/2017



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

Jessie A. Cook
LAW OFFICE OF JESSIE A. COOK
jessieacook@icloud.com

Robert W. Hammerle
PENCE HENSEL LLC
rhammerle@pencehensel.com

Jeffrey D. Preston
UNITED STATES ATTORNEY'S OFFICE (Indianapolis)
jeffrey.preston@usdoj.gov

DUSM William Kaulfers
William.Kaulfers@usdoj.gov