

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ISA ALI ABDULLA ALMURBATI, et al. Petitioners,)))
v.) Civil Action No. 04-CV-1227 (RBW)
GEORGE WALKER BUSH, President of the United States, et al.,)))
Respondents.)))

DECLARATION OF ANDREW I. WARDEN

Pursuant to 28 U.S.C. § 1746, I, Andrew I. Warden, Trial Attorney, United States Department of Justice, hereby declare:

- I am one of the government counsel representing respondents in the Guantanamo
 Bay ("GTMO") habeas litigation. In this capacity, I serve as one of the primary
 points of contact for petitioners' counsel.
- 2. Paragraph 10 of the Declaration of Joshua Colangelo-Bryan in Support of Motion to Compel states that on November 10, 2004, Mr. Colangelo-Bryan requested classification review by the Privilege Team of the notes taken during his visit to GTMO on October 24-28, 2004. While true, at the time this request was made, I informed Mr. Colangelo-Bryan that I had not received any confirmation that the notes had, in fact, arrived in Washington, DC. I was unable to confirm for Mr. Colangelo-Bryan that the notes arrived at the offices of the Court Security Officers (CSOs) the intended recipients of all counsel notes sent from GTMO –

until November 12, 2004, the Friday before the opening of the secure work facility for habeas counsel on Tuesday, November 16, 2004. I then began attempts to

coordinate the transfer of the notes to the Privilege Team for review.

4. On November 16, 2004, Mr. Colangelo-Bryan sent me an e-mail message from the secure facility complaining that none of the interview notes had been reviewed by the Privilege Team. A copy of the e-mail is attached. During a subsequent phone call with Mr. Colangelo-Bryan, I explained that the Privilege Team has seven business days to review any materials submitted for classification review, beginning from the date the team receives the materials. See Amended Protective Order, Ex. A at ¶ VII.C.1. I then coordinated with the CSOs, and understand that

5. Mr. Colangelo-Bryan's request for Privilege Team review was one of the first requests for review of attorney visit notes in the GTMO habeas litigation. Shortly after the secure facility was opened, requests for Privilege Team review began to be handled primarily through direct requests from counsel to the CSOs, without involvement of Department of Justice counsel.

the documents transferred to the Privilege Team on or about November 17, 2004.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 5, 2005

ANDREW I. WARDEN

Trial Attorney, U.S. Department of Justice

Warden, Andrew (CIV)

From: Sent: Colangelo.Bryan.Joshua@dorsey.com Tuesday, November 16, 2004 3:08 PM

To:

Warden, Andrew (CIV)

Subject:

Re:



Andrew,

We are in the secure facility and two issues have arisen.

First, only five of the six packets of interview notes we submitted at gtmo are here. The notes that I took during meetings with Almurbati are not to be found and Jennifer Campbell does not remember seeing them.

Second, none of the interview notes that are here have been reviewed by the privilege team despite my request last week that a review take place. Jennifer does not remember that any request for review was communicated to her.

Please get back to me as soon as you can. My cell is 917 385 1633.

Thanks, Josh

Sent from my BlackBerry Wireless Handheld