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FILED WITH THE
COURT SECURITY OFFICE
CSO: *J. Waters*
DATE: *9/19/09*



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SUHAIL ABDU ANAM, *et al.*,

Petitioners,

v.

BARACK H. OBAMA, *et al.*,

Respondents.

Civil Action No. 04-1194 (TFH)

ORDER

On August 5, 2009, the Court held a closed-session Motions Hearing for petitioner Jalal Bin Amer (ISN 564), during which the Court discussed petitioner's Motion to Compel Additional Discovery Pursuant to Sections I.E.1 and I.E.2 of the Case Management Order ("Motion for Discovery"). For the reasons set forth during the hearing, and for those that follow, the Court hereby

ORDERS that the Motion for Discovery is **GRANTED IN PART** and **DENIED IN PART**. Petitioner makes twelve requests: one request for an order requiring the government to comply with Section I.E.1 and eleven discovery requests pursuant to Section I.E.2. The Court's ruling as to each request is explained in detail below.

1. An Order Requiring the Government to Comply with Section I.E.1

The Court denies petitioner's request. Section I.E.1(2) requires the government to disclose "all statements, in whatever form, made or adopted by the petitioner that the government relies on to justify detention." *See* Case Management Order ("CMO"), *In re Guantanamo Bay*

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Litig., Misc. No. 08-0442, Dkt. No. 940 (Nov. 6, 2008), amended by Dkt. No. 1315 (Dec. 16, 2008) § I.E.1(2). Petitioner presents no evidence that the government has failed to produce all of petitioner's statements on which the government relies to justify detention, as well as all forms of those statements.

2. Access to and Information Regarding the Current Status, Location and Family Contact Information for All Individuals Known to the Government with Information Relevant to the Status of Petitioner

The Court denies petitioner's request. A request for access to and information on all individuals with relevant information on the petitioner is not "narrowly tailored." CMO § I.E.2(1). Additionally, the Court finds that the request is not "likely to produce evidence that demonstrates that the petitioner's detention is unlawful." CMO § I.E.2(3).

3 Bounties or Fees Given to Third Parties

The Court denies petitioner's request. The Court finds that the request is not "likely to produce evidence that demonstrates that the petitioner's detention is unlawful." CMO § I.E.2(3).

4. Documents Reflecting Credibility of Government Witnesses

The Court denies petitioner's request. The Court finds that granting the request for any documents reflecting the credibility of any witness on which the government relies is not "likely to produce evidence that demonstrates that the petitioner's detention is unlawful." CMO § I.E.2(3).

5. Medical Records of Petitioner and Government Witnesses

The Court denies without prejudice petitioner's request for his own medical records. Petitioner fails to demonstrate with sufficient specificity and evidence that he suffered from

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[REDACTED]

mistreatment or that such mistreatment had a specific nexus with his statements on which the government relies. If petitioner can document evidence of such mistreatment or articulate a specific nexus, he may renew this request.

With respect to the medical records of witnesses on which the government relies, the request is denied.

6. Documents Detailing Conditions of Confinement and Abuse by Foreign Captors

The Court denies without prejudice petitioner's request for documents detailing the abuse he suffered at the hands of foreign captors. Petitioner fails to demonstrate with sufficient specificity and evidence that he suffered from abuse by Pakistani authorities or that such abuse had a specific nexus with his statements on which the government relies. If petitioner can document evidence of such abuse or articulate a specific nexus, he may renew this request.

With respect to the abuse of witnesses on which the government relies, and in all other respects, the request is denied.

7. [REDACTED] Used to Identify Petitioner

The Court grants in part petitioner's request. In the Factual Return, the government relies on witnesses' identifications of petitioner via [REDACTED]. Therefore, the government is ordered to disclose every [REDACTED] that those witnesses positively identified as petitioner. *See, e.g., Al Odah v. United States*, Civil Action No. 02-0828 (Dkt. No. 474) (D.D.C. Feb. 12, 2009) (Kollar-Kotelly, J.) (ordering the government to disclose "the [REDACTED] collections or individual [REDACTED] referenced in the Factual Returns that were used by interrogators to have detainees identify Petitioners").

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In all other respects, the request is denied.

8. Documents Shown to Petitioner or Government Witnesses During Interrogations

The Court denies petitioner's request. The Court finds that granting the request for any documents shown during the course of interrogations and any documents allegedly relevant to the continued detention of the petitioner is not "likely to produce evidence that demonstrates that the petitioner's detention is unlawful." CMO § I.E.2(3). Additionally, the request is not "narrowly tailored." CMO § I.E.2(1).

9. Polygraph and Voice Stress Test Results

The Court denies petitioner's request. The Court finds that granting the request for the results of all polygraph and voice stress tests conducted on petitioner and any witnesses against him is not "likely to produce evidence that demonstrates that the petitioner's detention is unlawful." CMO § I.E.2(3). Petitioner fails to demonstrate that polygraph or voice stress tests were conducted on him or any witnesses against him.

10. Information Regarding Interpreters

The Court denies petitioner's request. A request for all information regarding the identification, education, certification, and other professional credentials of any and all interpreters used in questioning petitioner and any complaints from any source regarding the competency of such interpreters, as well as all information on any person who has allegedly provided statements regarding petitioner taken by any foreign language interpreters, is not "narrowly tailored." CMO § I.E.2(1). Additionally, the Court finds that the request is not "likely to produce evidence that demonstrates that the petitioner's detention is unlawful." CMO §

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I.E.2(3). The broad search suggested by petitioner would also “unduly burden[] the government.” CMO § I.E.2(4).

11. Petitioner’s Association with an Organization

The Court denies petitioner’s request. The Court finds that granting the request for any information regarding petitioner’s association with an organization that the government intends to rely on is not “narrowly tailored.” CMO § I.E.2(1). The request is also not “likely to produce evidence that demonstrates that the petitioner’s detention is unlawful.” CMO § I.E.2(3).

12. Procedures Through Which Individuals Became Members of al-Qaeda

The Court denies without prejudice petitioner’s request. The relevance of petitioner’s request depends on the scope of the government’s detention authority, which the Court has not yet defined. Once the Court defines the scope, petitioner may renew his request, if it is relevant.

The Court further

ORDERS that discovery pursuant to this order shall be completed on or before October 9, 2009.

SO ORDERED.

September 9, 2009

/s/
Thomas F. Hogan
United States District Judge

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