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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
ADEL HAMLILI,)	
)	
<i>Petitioner,</i>)	Misc. No. 08-442 (TFH)
)	
v.)	Civil Action No.
)	05-CV-0763 (JDB)
GEORGE BUSH <i>et al.</i> ,)	
)	
<i>Respondents.</i>)	
_____)	

**PETITIONER'S MOTION TO COMPEL PRODUCTION
OF UNCLASSIFIED FACTUAL RETURN**

On September 1, 2008, the Government filed the Factual Return (the "Return") in this matter under seal. The Government designated the entire Return, which consists of a 17-page "Narrative" and 32 exhibits, as "Secret" – despite the fact that most, if not all, of the Government's allegations in the Return are already part of the public record.

Furthermore, many of the allegations derive from Petitioner's own statements, contained in 19 interrogation reports attached as exhibits to the Return. As a result of the Government's undifferentiated designation, counsel cannot discuss with Petitioner any of the contents of the Return – including his own statements – and can only review and analyze the Return at the secure facility in Washington. We ask the Court to compel the Government to produce a public, unclassified version of the Factual Return within two weeks.¹ We have conferred with counsel for the Government, who has advised us that the Government opposes this motion.

¹ Counsel for Petitioner understands that, in the cases over which he presides, Judge Leon has already granted this relief.

The Government has marked every page of the Return “SECRET//NOFORN,” with no regard for the actual contents on the page. The “Narrative” primarily repeats allegations that were first made in Petitioner’s CSRT and ARB proceedings, the records of which have been declassified and available on the Internet for years. The Government acknowledges that the Narrative is “largely drawn from Hamlili’s own account” during interrogations (¶ 2); it appears that these statements, which are attached as exhibits to the Return, are unclassified in their entirety. The Return also repeatedly cites Internet websites and the 9/11 Commission Report, which is available at any local bookstore. Even the cover pages for the Return’s exhibits, which contain no substantive information at all, have received a classified designation. There is absolutely no legitimate reason for the Government to withhold *unclassified* information from Petitioner, his counsel, and potential witnesses.

The Government’s approach denies Petitioner a “fair opportunity to rebut the Government’s factual assertions.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004) (plurality opinion). In refusing to distinguish between unclassified information and specific information that legitimately requires a classified designation, the Government is unnecessarily and unfairly preventing Petitioner from understanding the allegations against him. The Government is also impeding counsel for Petitioner from preparing his

case. The Court should order the Government to file a public version of the Return, including exhibits, no later than October 6, 2008.

Dated: September 22, 2008
Washington, D.C.

Respectfully submitted,



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Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2008, I served the foregoing *Petitioner's Motion to Compel Production of Unclassified Factual Return* through the Court's electronic notification system to all registered counsel.

A handwritten signature in black ink, appearing to read "Adam Marsh", is written over a horizontal line.

Adam Marsh