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[REDACTED]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SUHAIL ABDU ANAM, *et al.*,

Petitioners,

v.

Civil Action No. 04-1194 (TFH)

BARACK H. OBAMA, *et al.*,

Respondents.

ORDER

On July 29, 2009, the Court held a classified motions hearing to entertain arguments regarding petitioner Emad Abdullah Hassan's (ISN 680) Motion for Additional Discovery [Docket No. 404] and First Supplemental Motion for Additional Discovery [Docket No. 473]. For the reasons set forth during the hearing, and for those that follow, it hereby is

ORDERED that the Motion for Additional Discovery [Docket No. 404] is **GRANTED IN PART** and **DENIED IN PART**. The Court grants the motion with respect to statements made by [REDACTED]. Accordingly, the government shall produce all reasonably available statements, in whatever form, made by [REDACTED] that have not previously been produced to petitioner's counsel and that relate to the statements attributed to him in the Amended Factual Return, as well as reasonably available information about the circumstances in which such statements were made or adopted. In this context, the term "reasonably available" means evidence contained in the consolidated files or the Guantanamo Review Task Force database. The Court denies the motion with respect to

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[REDACTED]

statements made by other witnesses identified in the petitioner's motion because the Court finds that the requested statements are not "likely to produce evidence that demonstrates that the petitioner's detention is unlawful." Case Management Order ("CMO") § I.E.2(3), *In re Guantanamo Bay Litig.*, Misc. No. 08-0442, Docket No. 940 (Nov. 6, 2008), *amended by* Docket No. 1315 (Dec. 16, 2008). It further is

ORDERED that the First Supplemental Motion for Additional Discovery [Docket No. 473] is **GRANTED IN PART** and **DENIED IN PART**. With respect to each request separately enumerated in the petitioner's supplemental motion, the Court rules as follows:

1. First Request – Documents relating to [REDACTED] alleged torture: The Court denies the motion without prejudice with respect to this request because there is no indication that the government intends to rely on any statements the witness made before arriving at Guantanamo Bay and the Court finds that documents relating to prior interrogations by foreign governments or at other locales before the petitioner arrived a Guantanamo Bay are not "likely to produce evidence that demonstrates that the petitioner's detention is unlawful." CMO § I.E.2(3).
2. Second Request – [REDACTED] and identification procedures: The petitioner sought copies of [REDACTED] and information about the procedures the government used that resulted in witnesses identifying the petitioner. During the hearing the petitioner stated that he was withdrawing the request for [REDACTED] identification procedures involving witnesses [REDACTED] and [REDACTED]. With respect to [REDACTED] which was not withdrawn, the government shall disclose any [REDACTED] that this witness positively identified as the petitioner or as [REDACTED]. *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] or individual [REDACTED] referenced in the Factual Returns that were used by interrogators to have detainees identify Petitioners").

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[REDACTED]

3. Third Request – All documents that bear on the credibility or reliability of witnesses: The Court denies the motion with respect to this request because the Court finds that the requested statements are not “likely to produce evidence that demonstrates that the petitioner’s detention is unlawful.” CMO § I.E.2(3).
4. Fourth Request – Documents expressing doubt about the petitioner’s dangerousness: The Court denies the motion with respect to this request because the Court finds that the requested statements are not “likely to produce evidence that demonstrates that the petitioner’s detention is unlawful.” CMO § I.E.2(3).
5. Fifth Request – [REDACTED] This request is denied as moot in light of the government’s assurance that it is attempting to secure legible copies.
6. Sixth Request – Documents regarding [REDACTED] The government shall disclose any documents relating to an individual referred to as [REDACTED] traveling to Afghanistan during the relevant time period that [REDACTED] traveled to Afghanistan.
7. Seventh Request – Names of Special Agent and Linguist involved in the petitioner’s interrogation on March 22, 2004: This request was withdrawn by the petitioner so the Court need not address it.

IT ALSO IS ORDERED that discovery pursuant to this order shall be completed on or before October 9, 2009.

SO ORDERED.

September 9, 2009

/s/ Thomas F. Hogan
Thomas F. Hogan
United States District Judge

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