

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MAHMOAD ABDAH, et al.,

Petitioners,

v.

BARACK H. OBAMA, et al.,

Respondents.

Civil Action 04-01254 (HHK)

ORDER

Before the Court is the government's motion to admit hearsay evidence with a presumption of accuracy and authenticity [#519]. The Court concludes that the motion should be granted with respect to the admission of hearsay evidence. The Court also concludes that any evidence presented by the government that has been created and maintained in the ordinary course of business should be afforded a presumption of authenticity. The Court, however, concludes that the government's evidence should not be afforded a presumption of accuracy for the reasons stated by Judge Kessler in *Ahmed v. Obama*, 613 F. Supp. 2d 51, 54-55 (D.D.C. 2009) and Judge Kollar-Kotelly in *Al Mutairi v. United States*, Civil Action 1:02-00828 (August 3, 2009).

Instead, the Court shall consider the accuracy, reliability and credibility of all of the evidence presented on a case-by-case basis in the context of the evidence as a whole and the arguments presented during the merits phase of this case. It shall be the burden of the proponent of any piece of evidence to establish its accuracy, reliability and credibility.

Accordingly, it is this 26th day of August 2009, hereby

ORDERED that the government's motion [#519] is GRANTED as to the admission of hearsay evidence and the presumption of authenticity and DENIED as to the presumption of accuracy.

Henry H. Kennedy, Jr.
United States District Judge