

**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)**

**PREHEARING ORDER**

It is this 14<sup>th</sup> day of December 2009, hereby **ORDERED**:

**1. Hearing Date and Time**

The merits hearing for Petitioner Uthman Abdul Rahim Mohammed Uthman (ISN 27) is scheduled for 10:00 a.m. on January 25, 2010. The hearing shall continue day to day until concluded.

**2. Petitioner's Participation**

Counsel for Petitioner will notify the Court and Respondents by January 4, 2010, whether Petitioner will testify at the hearing. Petitioner will be subject to cross-examination if he testifies.

**3. Briefs**

a) Each side shall submit a brief in support of a motion for judgment on the record by no later than January 4, 2010, not to exceed 45 pages. The briefs shall include:

- i. discussion of applicable legal principles concerning detention authority as well

as any other issues relevant to the motions, and

- ii. discussion and argument concerning the relevant facts, with specific citations to and discussion of the evidence relevant to the positions taken in the briefs.

b) Each side shall submit an opposition brief by no later than January 11, 2010, not to exceed 35 pages.

c) The parties need not comply with the provision in Section III.A of the Consolidated Case Management Order to the extent that it requires submission of separate statements of material facts as to which a party contends there is no genuine dispute.

d) The parties shall submit to the Court two (2) copies of all briefs and oppositions.

#### **4. Exhibits**

By January 15, 2010, the parties shall submit a numbered list of Joint Exhibits, along with a bound and tabbed copy of those exhibits. The parties will mark the exhibits as JE #\_\_.

The parties are on notice that any documentary evidence that has not been included in the joint exhibits, or any argument based on such evidence, likely will be excluded from consideration by the Court. The two exceptions to this deadline shall be (1) documents offered solely for rebuttal of arguments made at the Merits Hearing that could not reasonably have been anticipated before January 15, 2010, and (2) exculpatory information, which Respondents have a continuing obligation to disclose to Petitioner. Should parties need to add exhibits after January 15, 2010, those exhibits shall not be submitted as supplements to the joint exhibits. Instead, respondents' exhibits will be referred to as GE #\_\_ and Petitioner's exhibits as PE #\_\_.

The parties shall submit to the Court two (2) copies of all exhibits and exhibit lists, bound separately.

## **5. Prehearing Conference**

The Court will hold a prehearing conference on January 19, 2010, at 4:45 p.m.

## **6. Merits Hearing Procedures**

**a) Opening Statements.** The parties will begin with unclassified opening statements, with Respondents presenting their opening statement first. Counsel for Petitioner has indicated that Petitioner would like to listen to the unclassified opening statements. Petitioner shall be responsible for providing a translator, and Respondents will coordinate with the appropriate entities and individuals to provide the logistical arrangements. Following the unclassified opening statements, Respondents, and then Petitioner, will present classified opening statements.

**b) Petitioner's Testimony.** Following the opening statements, Petitioner shall have an opportunity to testify. No other individuals will testify during this proceeding.

**c) Presentation of Evidence.** The parties will make an issue-by-issue presentation, consistent with the approach to these proceedings used by other Members of the Court. By January 15, 2010, the parties will file a statement of material issues in dispute, and the order in which they will be presented, to the Court. If the parties cannot agree on what the material issues are, or the sequence in which they shall be addressed, they will file separate proposals to the Court, identifying the areas of disagreement.

As to each material issue, Respondents shall make the first presentation. Petitioner then will have an opportunity to respond to Respondents' presentation, and Respondents then will have an opportunity to respond to Petitioner's presentation in rebuttal.

**d) Closing Statements.** The parties shall present classified closing statements. Respondents shall make their closing argument first, followed by Petitioner. Respondents will

then be allowed an opportunity to present arguments in rebuttal. The parties will be given equal time for making closing statements, including rebuttal.

**7. Objections to Prehearing Order.** Any objection to or request for clarification of this order shall be filed by no later than January 4, 2010.

Henry H. Kennedy, Jr.  
United States District Judge