

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SAIFULLAH PARACHA, <i>et al.</i> ,)	
)	
Petitioners,)	
)	
v.)	Civil Action No. 04-CV-2022 (PLF)
)	
GEORGE W. BUSH,)	
President of the United States,)	
<i>et al.</i> ,)	
)	
Respondents.)	

**RESPONDENTS’ MOTION TO DESIGNATE AS “PROTECTED INFORMATION”
CERTAIN INFORMATION IN DECLARATION IN SUPPORT OF
RESPONSE TO AMENDED PETITION FOR HABEAS CORPUS AND
MOTION TO DISMISS OR FOR JUDGMENT AS A MATTER OF LAW AND
NOTICE OF SUBMISSION OF UNREDACTED DECLARATION UNDER SEAL**

COME NOW respondents, by and through their undersigned counsel, and respectfully request that this Court designate as “protected information” the identity of the declarant named in the declaration submitted in support of respondents’ response to amended petition for habeas corpus and motion to dismiss or for judgment as a matter of law. The identifying information that respondents seek to designate as “protected” has been redacted from the version of the declaration that is being filed today via the Court’s CM/ECF system. An unredacted version of the declaration is being submitted under seal to the Court through the Court Security Officer with information the government seeks to designate as “protected” highlighted in blue (consistent with previous submissions of “protected” material). Consistent with the Court’s November 10, 2004 Order in the other coordinated cases, counsel for respondents have conferred with Gaillard T. Hunt, counsel for petitioners, who indicated that he intends to challenge the Protective Order

entered in this case, and does not agree to treat information that respondents seek to designate as “protected” under the Protective Order as protected pending further order of the Court. Thus, respondents cannot disclose the “protected” information at issue to Mr. Hunt through service of the unredacted declaration or otherwise, until his challenge to the Protective Order is resolved and he agrees to maintain the confidentiality of this information unless directed otherwise by the Court. The Court should designate the identity of the declarant as “protected information” under the Protective Order for the reasons stated herein. As grounds for this motion, respondents state as follows:

1. On December 16, 2004, the Court applied to this case the Amended Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba (“Protective Order”) that had been entered in the other coordinated Guantanamo Bay detainee cases. The Protective Order establishes procedures regarding the handling of classified national security information and other protected information involved in the Guantanamo Bay detainee cases. Unclassified information that is “worthy of special treatment,” see Protective Order, ¶ 11, may be designated as “protected information” so that it is treated with a heightened level of confidentiality to protect significant government interests, but without the strict access and handling procedures required for classified information. See id., ¶¶ 35-45 & Ex. C.

2. The declarant named in the declaration submitted in support of respondents’ response to amended petition for habeas corpus and motion to dismiss or for judgment as a matter of law is a law enforcement officer who personally interviewed petitioner Saifullah Paracha. Saifullah Paracha is being detained by the United States as an enemy combatant

because he supported the Taliban and al Qaeda against the United States and its coalition partners. See Respondents' Factual Return to Petition for Writ of Habeas Corpus by Petitioner Saifullah Paracha and Notice of Submission of Factual Return Under Seal, filed January 18, 2005. Disclosure of the declarant's identity and other identifying information would potentially endanger the declarant's personal safety. Thus, respondents seek to designate the identity of the declarant and other identifying information as "protected information" under the Protective Order, that is, that it not be publicly disclosed, not disclosed to detainees, etc., as provided in the Order.

WHEREFORE, for the reasons stated herein, respondents respectfully request that the identity and other identifying information of the declarant named in the declaration submitted in support of respondents' response to amended petition for habeas corpus and motion to dismiss or for judgment as a matter of law, as redacted on the version of the declaration filed on the public record, be designated as "protected information" and subject to the applicable provisions of the Protective Order. A proposed order is attached.

Dated: January 18, 2005

Respectfully submitted,

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