

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| <u>HAMID AL RAZAK, et al.,</u> | : | |
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| Petitioner, | : | |
| | : | |
| v. | : | Civil Action No. 05-1601 (GK) |
| | : | |
| <u>BARACK H. OBAMA, et al.,</u> | : | |
| | : | |
| Respondents. | : | |
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ORDER

Upon consideration of the present state of this litigation, and the Court's experience in managing other Guantanamo Bay litigation, the Court concludes that the following Order will help narrow issues in this case and, hopefully, narrow any discovery disputes which may arise. It is hereby

ORDERED, that the Government shall submit by **June 15, 2009**, a numbered statement of material facts upon which it intends to rely in making its case-in-chief. The statement of material facts shall provide a short statement of each material fact upon which the Government intends to rely in making its case-in-chief, and it shall identify all evidence it expects to elicit in support of those facts and how it intends to present the evidence, including the names of any witnesses the Government intends to call or upon whose statement it relies; and it is further

ORDERED, that if the Government intends to rely on any statements in its statement of material facts, it shall produce, to

the Court and to Petitioner's counsel, on or before **June 15, 2009**, the statements, in whatever form, including any:

- A. audio recordings of statements;
- B. video recordings of statements;
- C. transcripts of statements;
- D. contemporaneous notes taken during statements; or
- E. records or reports of statements prepared by persons other than the persons who prepared the summaries of the statements already produced.

In addition, the Government shall produce: (1) the identity of the speaker; (2) the content of the statement; (3) the person(s) to whom the statement was made; (4) the date and time the statement was made or adopted; and (5) the circumstances under which such statement was made or adopted (including the location where the statement was made). If the Government cannot identify the original source or any later source of the information, it must so indicate.

If the Government intends to rely on any documents (including FBI 302 reports), the documents shall be produced to Petitioner's counsel along with the statement of facts, unless such documents were already produced, and the relevant portions of the documents shall be identified (by page and paragraph number) if the Government does not intend to rely on the entire document; and it is further

ORDERED, that "reasonably available evidence," under § I.D.1 of the Case Management Order, includes any evidence discovered by

the Government attorneys while preparing the Petitioner's factual return or while litigating habeas corpus petitions filed by other detainees at Guantanamo Bay, as well as any evidence discovered during the ongoing review of Guantanamo cases ordered by President Obama on January 22, 2009. See Executive Order 13,492, § 2(d) (ordering the "prompt and thorough review of the factual and legal bases for the continued detention of all individuals currently held at Guantanamo, and of whether their continued detention is in the national security and foreign policy interests of the United States and in the interests of justice").

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| | /s/ |
| May 11, 2009 | Gladys Kessler |
| | United States District Judge |

Copies to: Attorneys of Record via ECF