

HAYAL AZIZ AHMED AL-MITHALI,
Petitioner,
v.
GEORGE W. BUSH *et al.*,
Defendants.

Civil Action No. 05-cv-2186 (ESH)

Upon consideration of respondents' motion to clarify or reconsider two case management order provisions and to stay those obligations pending resolution of this motion and any appeal [142], petitioner's memorandum in opposition [148], petitioner's cross-motion for adoption of Judge Hogan's January 15, 2009 *Alsawam* Order and production of the unclassified statement of facts [147], and for the reasons stated in a court proceeding held on January 30, 2009, it is hereby

1. The phrase “or any evidence within its actual knowledge” is deleted from section 3 of the Court’s December 19, 2008 Order and page 1 of the Court’s January 9, 2009 Order, and the scope of discovery regarding exculpatory evidence is defined in Judge Hogan’s Order of November 6, 2008, as amended on December 16, 2008.
2. The discovery ordered in paragraph 1 of the Court’s January 9, 2009 Order shall be limited to documents that reflect or refer to statements made by petitioner to either foreign or domestic authorities between September 11, 2002 and October 28, 2002.

3. The discovery ordered in paragraph 2 of the Court's January 9, 2009 Order shall be confined to evidence of abuse, torture, or coercion that occurred between September 11, 2002 and October 28, 2002.
4. The scope of search for the evidence described in paragraphs 1 and 2 shall include the DOJ attorneys who are litigating the habeas corpus petitions filed by detainees at Guantanamo Bay, the three databases of the Department of Defense, and the agency identified by the Court.
5. All other provisions of the Court's December 19, 2008 and January 9, 2009 Orders shall remain in effect. It is further

ORDERED that the government's motion for certification for interlocutory appeal is **DENIED**. It is further

ORDERED that petitioner's cross-motion for adoption of Judge Hogan's January 15, 2009 *Alsawam* Order and production of the unclassified statement of facts is **GRANTED IN PART**:

6. On or before February 13, 2009, the government shall produce an unclassified version of the narrative section of the Statement of Facts, which was filed as a classified document on December 31, 2008.
7. On or before February 13, 2009, the government shall undertake declassification of all statements made by petitioner that are contained within the three documents identified by petitioner's counsel during the court proceeding held on January 30, 2009.
8. The Court will apply Judge Hogan's Order, dated January 15, 2009, as clarified on January 30, 2009, in *Alsawam v. Obama*, 05-cv-1244, to this action.

SO ORDERED.

/s/
ELLEN SEGAL HUVELLE
United States District Judge

Date: February 2, 2009