

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SHAWALI KHAN,

Petitioner,

v.

BARACK OBAMA, et al.,

Respondents.

Civil Action No. 08-1101 (JDB)

ORDER

The Court has before it [146] the parties' Joint Status Report and Proposed Scheduling Order. The Court expresses its appreciation to the parties for producing such a helpful document. The Court also commends petitioner's counsel for his zealous efforts to ensure that his client receives the "prompt habeas corpus hearing" to which he is entitled. Boumediene v. Bush, 128 S. Ct. 2229, 2275 (2008).

Upon consideration of the parties' Status Report, the status conference held on October 15, 2009, and the entire record herein, it is hereby **ORDERED** as follows:

1. Respondents shall have additional time to search for further evidence and may amend their factual return by not later than December 15, 2009.
2. When respondents examine a particular database, file, or similar location while conducting the search for additional evidence identified in Paragraph 1, respondents shall also perform a simultaneous search for the following items of exculpatory evidence:
 - a. Evidence relating to cash bounties, cash payments or rewards paid to

informant(s) against petitioner or to any person(s) involved in petitioner's capture;

- b. Evidence that unidentified informant(s) engaged in criminal activity, abuse of drugs, or have given false or unreliable information in this case or in any other case;
- c. Evidence relating to petitioner's capture in November 2002 or his delivery to the Americans which is inconsistent with respondents' current position regarding petitioner's capture;
- d. Evidence relating to the search of petitioner's home and/or his store which contradicts respondents' claim that suspicious documents were seized from those locations; and
- e. Any other materials which are inconsistent with the allegations against petitioner as they are set out in the factual return.

The results of this search shall be disclosed to petitioner's counsel by not later than December 15, 2009.

- 3. Respondents shall conduct a search of Guantanamo Review Task Force documents that have been sorted into folders associated with petitioner to identify exculpatory evidence, including but not limited to the items described in paragraph 2 above. The results of this search shall be disclosed to petitioner's counsel by not later than December 15, 2009.
- 4. Respondents shall disclose to petitioner's counsel by not later than December 15, 2009 any additional materials which have not already been disclosed which relate

to Section I.E(2) of [81] the Case Management Order requiring the government to disclose "all statements, in whatever form, made or adopted by the petitioner that the government relies on to justify detention." With respect to these statements, respondents shall produce the following available materials:

- a. All video and/or sound recordings of any statement made by petitioner;
- b. Any contemporaneous notes or transcripts thereof, including any translation; and
- c. Any other records or reports of those statements, including records or reports made by persons other than the person who prepared the report attached to the factual return.

With respect to the interview of petitioner which took place on or about February 17, 2003, respondents shall also disclose any reasonably available information relating to the qualifications of the translator used during that session.

5. Respondents shall be under a continuing obligation to provide a report to the Court regarding the Task Force assessment of petitioner within two business days of the Review Panel's final decision regarding the disposition of petitioner.
6. Petitioner's traverse shall be due by not later than December 31, 2009.
7. A merits hearing on petitioner's habeas corpus petition is scheduled for February 18, 2010 at 10:00 a.m. in Courtroom 8. Respondents shall file a pre-hearing memorandum not exceeding forty-five (45) pages by not later than January 19, 2010. Petitioner shall file a responsive memorandum not exceeding forty-five (45) pages by not later than February 4, 2010. Respondents may file a reply

memorandum not exceeding twenty-five (25) pages by not later than February 11, 2010.

8. A telephone conference is scheduled on February 8, 2010 at 1:30 p.m. The parties shall place a joint call to chambers at (202) 354-3430 at that time.

SO ORDERED.

/s/
JOHN D. BATES
United States District Judge

Date: October 21, 2009