

HANI SALEH RASHID ABDULLAH
et al.,

Petitioners,

v.

GEORGE W. BUSH et al.,

Respondents.

Petitioner Hani Saleh Rashid Abdullah, a foreign national detained at Guantanamo Bay in the custody of the United States, has filed a motion to compel respondents to report on their compliance with a preservation order that required respondents to “preserve and maintain all evidence, documents and information, without limitation, now or ever in respondents’ possession, custody or control, regarding the individual detained petitioner[] in th[is] case[.]” Mem. Order, July 18, 2005. Respondents have acknowledged that after the preservation order was entered, they destroyed video-records of interrogations of another detainee, Abu Zubaydah, dating from the year 2002. See Abdah v. Bush, Civil Action No. 04-1254 (HHK), Hr’g Tr. at 22:7-9, Dec. 21, 2007. In his motion papers, petitioner has made a colorable showing that information obtained from Abu Zubaydah during 2002 likely included information regarding petitioner, and was therefore subject to the preservation order. (See Pet’r’s

Reply ¶ 1.) He also notes his own handling in detention and raises the valid questions of whether it, too, may have been videotaped and whether any such tapes have been destroyed. (See Pet'r's Mot. ¶¶ 3,4.)

Respondents oppose petitioner's motion by arguing that prudence cautions against granting the motion. They do not challenge the court's authority to enforce its own orders. See also id. at 24:4-6 ("We are not arguing that the court lacks jurisdiction to inquire into compliance with the court's own order entered by the court in this case.") They also do not dispute or otherwise respond directly to petitioner's allegations that they knowingly destroyed evidence pertaining to this petitioner that was subject to the July 18, 2005 preservation order entered in this case. Accordingly, it is hereby

ORDERED that petitioner's motion for relief be, and hereby is, GRANTED in part and DENIED in part. It is denied to the extent that it seeks in-court questioning of respondents' witness. It is granted to the extent that it seeks a substantive report from respondents. Respondents are ordered to file by February 14, 2008, a report detailing what they have done since the preservation order was entered in July 2005, and what they are now doing, to ensure compliance with the July 18, 2005 preservation order, and the nature of any evidence potentially

subject to the protective order that has been destroyed or otherwise spoliated.

SIGNED this 24th day of January, 2008.

/s/
RICHARD W. ROBERTS
United States District Judge