

FILED WITH
COURT SECURITY OFFICER
5/1/09 [Signature]
DATE

[REDACTED]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

<u>FARHI SAEED BIN MOHAMMED,</u>	:	
<u>et. al.,</u>	:	
	:	
Petitioners,	:	
	:	
v.	:	Civil Action No. 05-1347 (GK)
	:	
<u>BARACK H. OBAMA, et. al.,</u>	:	
	:	
Respondents.	:	
	:	

ORDER

A Status Conference was held in this case on April 28, 2009, which was closed to the public due to the discussion of classified information. Upon consideration of Petitioner Mohammed's Motion To Compel, or Exclude Evidence For Failure To Fully Respond To Request For Exculpatory Material ("Pet.'s Mot.") [Dkt. No. 158], the Opposition, representations of the parties, and the entire record herein, it is hereby

ORDERED, that Petitioner's request for information pertaining to [REDACTED] is granted in part. [REDACTED] is a key Government witness against Petitioner.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] He does not allege that he was tortured or abused at Guantanamo Bay, and the Government relies only on statements inculcating Petitioner which [REDACTED] gave at Guantanamo Bay, Resp't's Opp'n to Pet.'s Mot. ("Gov Opp'n") at 7.

Petitioner seeks evidence about the alleged torture of [REDACTED] whether he was in the custody of the United States or in the custody of any other nation or groups. The Government denies the relevance of such information to this case. The Government is wrong.¹

How could any person forget or be unaffected by the kind of torture that [REDACTED] alleges he endured, or by fear of facing such torture again? In addition to the horrendous torture [REDACTED] alleges, he also claims there were veiled threats of future torture if he did not cooperate, and [REDACTED]

¹ The Court has read carefully the [REDACTED] (Ex. 2 to Gov Opp'n). Assuming that every word of it is true, it does not change the ruling on materiality and relevance.

[REDACTED]

[REDACTED]

This is precisely the kind of information that Petitioner's counsel must have in order to challenge the credibility and reliability of all of the statements that [REDACTED] gave, regardless of whether they were given before or after he was detained at Guantanamo Bay, and regardless of whether they were given because of actual torture or because of his fear of a resumption of torture at an earlier time.

Further, the Petitioner's request for evidence is not, as the Government argues, overly broad or expansive, as outlined in Exhibit A to Petitioner's Motion. However, Request No. 1.E in Exhibit A must be limited to any assertion relied on by the United States in this case pertaining to [REDACTED] hostile activities.

The Government has a choice: it shall either provide such "circumstances" evidence and information about alleged torture, or, in the event that it fails to do so, the Court will conclude that [REDACTED] allegations of torture are well-founded and will admit his statements into evidence.

Wherefore it is this ^{1st} day of May, 2009,

ORDERED, that Petitioner's request for information pertaining to [REDACTED] is granted; and it is further

ORDERED, that Petitioner's request for information pertaining

[REDACTED]
to [REDACTED] is deferred until May 11, 2009, because counsel are attempting to resolve the dispute. On that date, Petitioner's counsel shall file a praecipe indicating whether the request is being withdrawn or not; and it is further

ORDERED, that Petitioner's request for information pertaining to [REDACTED] is denied without prejudice, because Petitioner has withdrawn the request; and it is further

ORDERED, that by May 11, 2009, Petitioner's counsel shall file a praecipe indicating whether or not the Petitioner wishes to listen to the unclassified portions of the Merits Hearing; and it is further

ORDERED, that Motions for Judgment on the Record shall be submitted by May 18, 2009. The Oppositions are due by June 5, 2009; and it is further

ORDERED, that a Pretrial Conference will take place in Chambers on May 18, 2009, at 1:30 p.m. In advance of that Conference, by May 14, 2009 at 5:00 p.m., parties shall submit their statements of the main issues in dispute.

May 1, 2009

1s/ Gladys Kessler
Gladys Kessler
United States District Judge

Copies to: Attorneys of Record via ECF