

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SUHAIL ABDU ANAM, *et al.*,

Petitioners,

v.

BARACK H. OBAMA, *et al.*,

Respondents.

Civil Action No. 04-1194 (TFH)

ORDER

On October 20, 2009, the Court held a Prehearing Conference for Petitioner Musa'ab Al Madhwani (ISN 839), part of which was closed. The Court heard argument on pending motions and discussed logistics for the upcoming Merits Hearing. This order serves to memorialize the rulings issued during the conference. Accordingly, for the reasons set forth during the conference, the Court hereby

ORDERS that Respondents' Motion for Leave to Amend the Factual Return for ISN 839 to Include Additional Evidence [Dkt. No. 580] is **GRANTED**. Though Respondents may rely on the thirty-eight exhibits attached to the motion, they are prohibited from relying on any documents disclosed to Petitioner's counsel after October 5, 2009. In order to provide Petitioner's counsel with additional time to process these new exhibits, the Court offered to delay the Merits Hearing and listed alternative hearing dates. The Court was informed today, October 21, 2009, that Petitioner's counsel have chosen to decline the Court's offer and wish proceed with the Merits Hearing as scheduled. Therefore, the Merits Hearing will begin on October 26, 2009, at 9:30 a.m. in Courtroom 15. The Court further

ORDERS that Respondents' Notice of Filing of Materials Relating to a Witness Upon Whom Respondents Rely in their Factual Returns, Whose Statements Petitioners ISN 256 and ISN 839 Have Put at Issue With the Court, or in the Alternative, Motion to Supplement the Record [Dkt. No. 575] is **GRANTED IN PART**. The motion is granted with respect to Petitioner Al Madhwani. The attached materials may only be used as rebuttal evidence at Petitioner Al Madhwani's Merits Hearing. The Court defers ruling on the motion with respect to Petitioner Riyadh Ataq al Haj (ISN 256). The Court further

ORDERS that Petitioner's unopposed Motion for Leave to File Petitioner's Prehearing Statement Under Seal [Dkt. No. 578] is **GRANTED**. The Court further

ORDERS that Respondents' Motion to Exclude Testimony of Petitioner's Expert Witnesses or, in the Alternative, for Disclosures of Summaries of Expert Opinions, and Motion to Exclude Petitioner's Witness Mohamad Al Madhwani from the Merits Hearing [Dkt. No. 605] is **GRANTED IN PART** and **DENIED IN PART**. The motion to exclude the testimony of Petitioner's expert witnesses is denied. The motion for disclosures of summaries of expert opinions is granted. Petitioner's counsel is ordered to provide Respondents with summaries of the opinions of Petitioner's expert witnesses on or before Thursday, October 22, 2009. The motion to exclude Petitioner's witness Mohamad Al Madhwani is denied as moot since Petitioner's counsel represented at the hearing that they will not call Mohamad Al Madhwani as a witness. The Court further

ORDERS that the entire Merits Hearing will be held in Courtroom 15 to accommodate Petitioner's counsel, one of whom will be at the United States Naval Base in Guantanamo Bay, Cuba ("Guantanamo Bay") during the length of the proceedings. Counsel at Guantanamo Bay

will be permitted to attend the hearing and conduct the direct examination of Petitioner, but otherwise will be prohibited from participating at the Merits Hearing due to technological issues.

SO ORDERED.

October 21, 2009

/s/ *Thomas F. Hogan*

Thomas F. Hogan
United States District Judge