

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
COURT
CSO:
DATE: 5/16/09

HASSAN BIN ATTASH, *et al.*)
)
 Petitioners,)
 v.)
)
 BARACK H. OBAMA, President of the)
 United States, *et al.*,)
)
 Respondents.)
)

Civil Action No. 05-1592 (RCL)

ORDER

Now before the Court are three discovery motions [176] filed by petitioner Bin Attash. Petitioner has filed motions to compel: (1) exculpatory evidence and automatic discovery pursuant to §§ I.D.1 and I.E.1 of the Amended Case Management Order (2) evidence relating to physical and psychological coercion; and (3) additional permissive discovery. Upon consideration of the motions, the consolidated opposition, the consolidated reply, the consolidated surreply, and the arguments at the June 8, 2009 hearing, the motions will be GRANTED in part and DENIED in part.

The following orders apply to “reasonably available” evidence. Reasonably available evidence is defined as “evidence contained in any information reviewed by attorneys preparing factual returns for all detainees; it is not limited to evidence discovered by the attorneys preparing factual returns for the petitioner.” (Amended Case Management Order [140], Section I.D.1.) Reasonably available evidence also includes information gathered pursuant to President Obama’s Executive Order of January 22, 2009, in which he directed the Attorney General to:

[A]ssemble all information in the possession of the Federal Government that pertains to any individual currently detained at Guantanamo and that is relevant to determining the proper disposition of any such individual. All executive branch departments and agencies shall promptly comply with any request of the Attorney General to provide information in their possession or control pertaining to any such individual.

Exec. Order No. 13,492 at § 4(c)(1), 74 Fed. Reg. 4897 (Jan. 22, 2009). Accordingly, it is hereby

ORDERED that the government provide to the petitioner all forms of his reasonably available statements in which he denies the allegations contained in the factual return. It is further

ORDERED that the government provide the petitioner with all reasonably available evidence that shows [REDACTED] [REDACTED] used the alias [REDACTED] It is further

ORDERED that the government provide the petitioner with all reasonably available evidence showing that individuals captured at the same time as the petitioner were apprehended with remote detonating devices. It is further

ORDERED that the government produce all reasonably available evidence showing that [REDACTED] is unreliable or that he has received perks for his cooperation. It is further

ORDERED that the government provide the petitioner with all reasonably available evidence that the petitioner was physically or psychologically coerced from the time of his September 10, 2002 capture to the time that he gave the statements that were relied on in the factual return. If the government refuses to deny the allegations of coercion or provide the evidence of coercion as ordered by the Court, the Court will not allow the government to use any forms of the petitioner's statements in its case-in-chief. If the government decides to fulfill the

above requirements and use certain statements, it is hereby

ORDERED that the government provide the petitioner with all reasonably available forms of the petitioner's statements that it intends to use, not merely the forms of the statements that are included in the factual return. It is further

ORDERED that the government must also provide the petitioner with all reasonably available evidence of the circumstances of the petitioner's interrogations that it intends to use, including interrogation logs. It is further

ORDERED that if the government wishes to use the statements of ██████████ in its case-in-chief, it must provide any reasonably available evidence of physical or psychological coercion prior to or contemporaneous with those statements. It is further

ORDERED that the government must produce the unredacted copies of the intelligence reports appended to the factual return to the petitioner or move for an exception under § I.F. It is further

ORDERED that the government review the information assembled by the Executive Task Force and produce any discovery required by the Case Management Order [125] and Amended Case Management Order [140]. It is further

ORDERED that the government must comply with all other orders contained herein no later than thirty days from this date. It is further

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ORDERED that the petitioner's discovery requests are DENIED in all other respects.

SO ORDERED.

Royce C. Lamberth

Chief Judge Royce C. Lamberth

4/11/09

Date