

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE:)	
)	
GUANTANAMO BAY)	Misc. No. 08-442 (TFH)
DETAINEE LITIGATION)	
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AMER MOHAMMON, <i>et al.</i> ,)	
(MAHER EL FALESTENY))	
)	
<i>Petitioners,</i>)	
)	
v.)	Civil No. 05-2386 (RBW)
)	
GEORGE W. BUSH, <i>et al.</i> ,)	
)	
Respondents.)	
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OPPOSITION TO MOTION FOR RECONSIDERATION

Petitioner Maher El Falesteny opposes the government's motion to reconsider the case management order. The government's proposed definition of exculpatory evidence is seriously deficient because, inter alia, it does not require the government to disclose information that bears on the credibility of witnesses for the government. None of the other relief in the motion is warranted: the motion should be denied in its entirety.

The government has failed to request the only revision of the case management order that should be made: the government should be directed to produce factual returns for prisoners cleared for release or transfer forthwith. If it

finds the task burdensome, it can always choose to vacate the prior determination that such prisoners, including Falesteny, are or ever were “enemy combatants.” This step is both consistent with the government's stated policy of seeking to resettle these men, and preserves the resources of the parties and the Court. As the Court is aware, a concession by the government that the detention of these men has no lawful basis would leave the question of remedy. The Court could further amend the case management order to provide for adjudication of the proper relief that should be accorded prisoners in this category.

Respectfully submitted,

/s/ Charles H. Carpenter

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