

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAN SLEH RASHID ABDULLAH,)
et al.,)
)
)
 Petitioners,)
)
 v.) Civil Action No. 05-00023 (RWR)
)
)
 GEORGE W. BUSH, *et al.*,)
)
)
 Respondents.)

**RESPONDENTS' REPORT IN CONNECTION
WITH THE COURT'S FEBRUARY 14, 2008 ORDER**

In response to the Court's February 14, 2008 Order directing respondents to "detail[] the nature of any evidence specific to petitioner Abdullah that is potentially subject to the Preservation Order [dated July 18, 2005] that has been destroyed or otherwise spoliated," the Court is respectfully referred to the annexed declaration of James Hourican, an Associate Deputy General Counsel in the Office of the General Counsel of the United States Department of Defense ("DoD"). As noted therein, DoD indicates that the records within the scope of the Preservation Order are being maintained in a manner to ensure that they are not destroyed, purged, or deleted. Further, the declaration makes clear that only one category of material has been identified within DoD that may have existed and that potentially falls within the scope of the Preservation Order but was not maintained. That material relates to the security monitoring recordings described in the declaration of Rear Admiral Mark Buzby dated February 8, 2008, previously provided to the Court on that date.

In addition, the Court is respectfully referred to the classified declaration of Wendy

Hilton, an Associate Information Review Officer in the National Clandestine Service of the Central Intelligence Agency (“CIA”), in which additional information is set forth.¹ The undersigned have been informed that the CIA has not exhausted its search regarding this matter. The CIA anticipates that it will complete its search by April 16, 2008, at which time it intends to make a further submission to the Court regarding the results of that further search.

¹ The classified declaration is being lodged with the Court Security Officer and will be available for the Court’s *ex parte in camera* review upon request. As of the time of this filing, the undersigned have not been able to confirm that petitioner’s counsel have met the prerequisites for access to the information in that declaration.

Dated: March 17, 2008

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HANI SALEH RASHID ABDULLAH)
et al.,)
Petitioners,)
v.)
GEORGE WALKER BUSH, et al.,)
Respondents,)

No. 05-00023 (RWR)

Pursuant to 28 U.S.C. § 1746, I, James K. Hourican, hereby declare that to the best of my knowledge, information, and belief, the following is true, accurate, and correct:

1. I am an Associate Deputy General Counsel within the Department of Defense (DoD), Office of the General Counsel (OGC). I have been employed in this capacity since September, 2007. I have been a licensed attorney since 1983.

2. Among my responsibilities within the OGC is performing various functions related to litigation involving detainees held at the Naval Station, Guantanamo Bay, Cuba. Since the middle part of February 2008, I have been responsible for preparing the report required by this Court's February 14, 2008 Order to be filed by DoD. That report must "detail[] the nature of any evidence specific to petitioner Abdullah that is potentially subject to the Preservation Order [dated July 18, 2005] that has been destroyed or otherwise spoliated."

3. To prepare DoD's report, I contacted those agencies and activities within DoD most likely to generate and maintain records relating to detainees, and in particular, the Petitioner, ISN-841, in order to determine whether any such records had been destroyed or purged since the entry of the Court's July 18, 2005 Preservation Order. With the exception of the items discussed in paragraph 4, I have determined that all other records, subject to the Preservation Order, maintained by these DoD agencies and activities relating to detainees held at the Naval Station, Guantanamo Bay, are maintained in a manner to ensure that these records are neither destroyed, purged, or deleted.

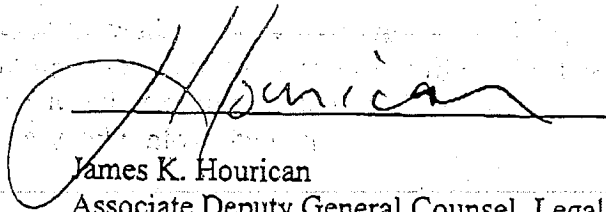
4. During the course of my inquiry, I learned of one category of material that potentially falls within the terms of the Court's July 18, 2005, Preservation Order, and that was likely destroyed. As described in the declaration of Rear Admiral Mark Buzby dated February 8, 2008, and, filed with the Court on that date, areas of the Guantanamo Bay facility were subject to monitoring in order for guards "to oversee activities in the camp for the purpose of ensuring good order and discipline." It is likely that petitioner Abdullah was in the vicinity and present when such recordings were made and because it is likely that those recordings were overwritten and/or deleted as detailed in the Buzby

declaration, it is likely that recordings of petitioner Abdullah were overwritten and/or deleted

5. Other than those recordings, I have determined that all other records subject to the Preservation Order, maintained by the DoD agencies and activities mentioned above, relating to the detainees held at the Naval Station, Guantanamo, are maintained in a manner to ensure that these records are neither destroyed, purged, or deleted. It is impossible, of course, to have absolute certainty that a record or file has not been destroyed in an unintentional, accidental or negligent manner. But each of the unit representatives from whom I have sought information in response to the Court's February 14, 2008 Order has made clear that, with the exception of the recordings described above in paragraph 4, he or she is unaware of any such known intentional, accidental, or negligent destruction of records covered by the Court's July 18, 2005 Preservation Order.

I declare under penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct.

Dated: March 17, 2008



James K. Hourican
Associate Deputy General Counsel, Legal Counsel
Office of the General Counsel
Department of Defense