

COVINGTON & BURLING LLP

1201 PENNSYLVANIA AVENUE NW WASHINGTON
WASHINGTON, DC 20004-2401 NEW YORK
TEL 202.662.6000 SAN FRANCISCO
FAX 202.662.6291 LONDON
WWW.COV.COM BRUSSELS

JASON M. KNOTT
TEL 202.662.5549
FAX 202.778.5549
JKNOTT@COV.COM

August 10, 2007

BY FIRST-CLASS AND ELECTRONIC MAIL

Robert M. Loeb, Esq.
Attorney, Appellate Staff
Civil Division, Room 7236
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: *Paracha v. Gates*, Case No. 06-1038 (D.C. Cir.)

Dear Bob:

In *Bismullah v. Gates*, Nos. 06-1197, 06-1397, 2007 WL 2067938 (D.C. Cir. Jul. 20, 2007), the D.C. Circuit ruled that petitioners in actions brought under the DTA are entitled to review the Government Information, defined as “reasonably available information in the possession of the U.S. Government bearing on the issue of whether the detainee meets the criteria to be designated as an enemy combatant.” *Id.* at *1. The Court further indicated that Government Information should also include at least such information as would be necessary for Petitioner’s counsel to assess whether Petitioner’s status determination “was made ‘consistent with the standards and procedures specified by the Secretary of Defense’” *Id.* at *6 & 6 n.*.

We therefore expect that Respondent’s production of the Government Information will include, but should not be limited to, the following materials:

1. All information in the U.S. Government’s possession indicating that Petitioner is not an enemy combatant.
2. All information relating to interrogations of Petitioner, whether at Guantánamo or elsewhere, by U.S. military, intelligence or law-enforcement personnel, by U.S. contractors, or by foreign nationals.

Robert M. Loeb, Esq.

August 10, 2007

Page 2 of 3

3. The circumstances under which Petitioner provided any evidence used to support the determination that he was an enemy combatant, including whether he was subject to coercion, torture, or threat of harsh treatment at the time. *See* DTA § 1005(a).
4. All information relating to Petitioner's arrest and detention, including negotiations with the governments of Thailand and Pakistan regarding Petitioner's arrest and locations (including dates) of Petitioner's detention.
5. With regard to any individual who provided evidence used to support the determination that Petitioner was an enemy combatant:
 - a. The identity of the individual;
 - b. All information related to whether the individual was subject to coercion, torture, or threat of harsh treatment at the time he made any statement related to Petitioner. *See* DTA § 1005(a);
 - c. All documents¹ describing the conduct and/or content of any interrogation of that individual, including but not limited to interrogation logs; and
 - d. All documents assessing or referring to the reliability of information received from that individual relating to Petitioner or in general.
6. All documents describing any interrogation that discussed, described, mentioned, or related to Petitioner, including:
 - a. any assessments of reliability of the individual interrogated;
 - b. any information related to whether statements made with regard to Petitioner were made under coercion or threat of harsh treatment; and
 - c. any information related to whether or not a statement derived from such interrogation was used to support the determination that Petitioner was an enemy combatant.

¹ The term "document" in this letter shall include writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained.

Robert M. Loeb, Esq.

August 10, 2007

Page 3 of 3

7. Information generated in connection with any initial determination that Petitioner was an enemy combatant and in any reviews of that determination, including documents generated in such proceedings. *See CSRT Procedures Encl. (1) § E.3.*
8. All information relating to any investigation into financial transactions related to Petitioner.
9. A list of all sources searched during the production of the Government Information. In the event that any information is excluded from the Government Information as not "reasonably available," Respondent should provide an index of all such information and an explanation of why it is not "reasonably available."
10. Any information related to any phase of Petitioner's CSRT proceeding, including records, notes, memoranda and correspondence of the Tribunal members, Recorders, Personal Representatives, or other persons who participated in the CSRT proceeding, including requests for information, requests to locate a witness for testimony, documents reflecting the collection of evidence and selection of evidence presented to the Tribunal, and documents reflecting preparation of the CSRT hearing records.

Please advise me as soon as possible, and in any case by August 20, 2007, when this material will be available. We understand that the government has proposed producing the Government Information in each DTA cases in stages, giving it first to the petitioners who filed first, including Paracha. *See Opp. to Mot. for Produc. of Information and Other Procedural Relief at 3, Al-Haag v. Gates*, No. 07-1165 (D.C. Cir. filed Aug. 6, 2007). If this proposal is accepted and Respondent fails to promptly provide the Government Information to Petitioner's counsel, this delay will harm not only Petitioner but all other DTA petitioners as well.

Please feel free to contact us if you would like to discuss our expectations for Respondent's production or any other issue related to Petitioner. I will be out of the office next week; if you need to speak with us during that time, please contact David Remes at (202) 662-5212.

Very truly yours,



Jason M. Knott