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Pending Classification ReviewUNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIAFiled with Classified
Information Security Officer
CISO [Signature]
Date 09/30/2019_____
GULED HASSAN DURAN (ISN 10023),*Petitioner,*

v.

Civil Action No. 16-2358 (RBW)

DONALD J. TRUMP, *et al.*,*Respondents.*
_____PETITIONER'S MOTION FOR DISCOVERY

Petitioner Guled Hassan Duran, by and through his undersigned counsel, respectfully submits this motion to compel Respondents to produce exculpatory evidence and other discovery that is relevant and material—in the sense that it is at least helpful—to Petitioner's habeas case. The parties have met and conferred for two years, and Respondents oppose this motion.

Petitioner contends that production of the requested documents and information is required pursuant to the Case Management Order ("CMO") entered by the Court on September 11, 2017 (dkt. no. 27); the habeas statute, 28 U.S.C. §§ 2241, 2243; the Supreme Court's decisions in *Boumediene v. Bush*, 553 U.S. 723 (2008), and *Harris v. Nelson*, 394 U.S. 286 (1969); the D.C. Circuit's decisions in *Al Odah v. United States*, 559 F.3d 539 (D.C. Cir. 2009), and *Parhat v. Gates*, 532 F.3d 834 (D.C. Cir. 2008); the Court's broad, equitable common law habeas authority to inquire into the factual basis for detention and order relief; and other authority.

Petitioner specifically contends that in order to ensure habeas review is meaningful, production of the requested documents and information is required not only by the Suspension

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Clause of the Constitution, but also by the Due Process Clause of the Fifth Amendment. *See Qassim v. Trump*, 927 F.3d 522, 529 (D.C. Cir. 2019) (courts may look to the Suspension Clause and the Due Process Clause to ensure habeas review is meaningful as mandated by *Boumediene*), *sua sponte suggestion for rehearing en banc denied*, 2019 WL 4456055 (D.C. Cir. Sep. 17, 2019). Petitioner contends that the Due Process Clause requires production of discovery that is exculpatory, or that is material but may not rise to the level where it is subject to disclosure as exculpatory, but which Respondents have withheld because it is classified. Such evidence includes, but is not limited to, [REDACTED]

Respondents rely on in the factual return to justify Petitioner's indefinite detention, which has continued for more than 15 years without foreseeable end.

The motion should be granted accordingly. If Respondents refuse to comply, the Court should order other necessary and appropriate relief, including exclusion of the corresponding evidence that Respondents rely on to justify Petitioner's detention, a determination that the evidence is unreliable, and/or a determination that Petitioner's rebuttal allegations are truthful.

Background

Petitioner, a citizen of Somalia, is detained without charge at the U.S. Naval Station at Guantanamo Bay, Cuba. He is one of only two "high-value" former CIA detainees who were not designated by the Guantanamo Review Task Force for prosecution in any forum. For more than a decade, he has been held indefinitely and without foreseeable end.

As set forth in the classified factual supplement to Petitioner's habeas petition, and Petitioner's declaration attached hereto as Exhibit A, in December 2003, prior to Petitioner's capture, he was shot during a robbery in Mogadishu, resulting in a broken left arm and a bullet in

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his abdomen. A Somali doctor operated on him, removing part of his large intestine and leaving him with a colostomy bag. The bullet remains in his abdomen today.

Petitioner was captured on March 4, 2004, as he was transiting through Djibouti to undergo surgery in Sudan to treat his wound, which was not healing properly. He was captured immediately upon arrival at the airport in Djibouti; Djiboutian security forces were waiting for him and appeared to have prior knowledge of his injuries. They put him in an office, asked about his wound and took everything in his possession. Petitioner was then put into a car and driven to a [REDACTED] where he was interrogated by U.S. officials. After [REDACTED] days he was transported [REDACTED]. He was then put on a plane and rendered [REDACTED]. He remained [REDACTED] until approximately April 2004, after which he was rendered to secret CIA detention [REDACTED]. In February 2005, Petitioner and the [REDACTED] prisoners were flown to a black site [REDACTED]. He remained there until April 2006, when he and the [REDACTED] prisoners were flown [REDACTED].

After a week [REDACTED] Petitioner was flown [REDACTED] for surgery to reverse his colostomy and finally repair his wound. Petitioner remained in the hospital [REDACTED] for about a month, and was rendered back [REDACTED] in late April or early May 2006. He remained there until his transfer to Guantanamo in September 2006.

Between the time of his capture in March 2004 and his transfer to Guantanamo in September 2006, Petitioner was interrogated by CIA officials. Throughout this time, Petitioner was held incommunicado, in solitary confinement, and threatened with and subjected to torture and abuse. Most importantly for present purposes, CIA interrogators withheld medical care for Petitioner's wound to pressure him to cooperate. From the time of his capture until his surgery [REDACTED] two years later, Petitioner received no adequate therapeutic medical care; the promise

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of medical care was used only as a lever for his interrogations. Indeed, throughout his CIA detention, adequate medical care was deliberately withheld. As a consequence, Petitioner continues to suffer from his wound and the aftereffects from the long period of neglect. For example, in 2010, Petitioner had emergency surgery at Guantanamo to treat a life-threatening intestinal blockage that appears to have resulted from the deliberate neglect of his initial injuries while in secret CIA detention.

Evidence in the Factual Return

In November 2016, Petitioner filed a habeas case challenging the legality of his detention. In May 2017, the government filed a factual return ("FR") alleging that Petitioner was

and is lawfully detained.

his membership in AIAT,

Respondents allege that Petitioner was part of an "Islamic militant organization" called Al-Itihad Al-Islami ("AIAT").

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his leadership of an Al Qaeda cell

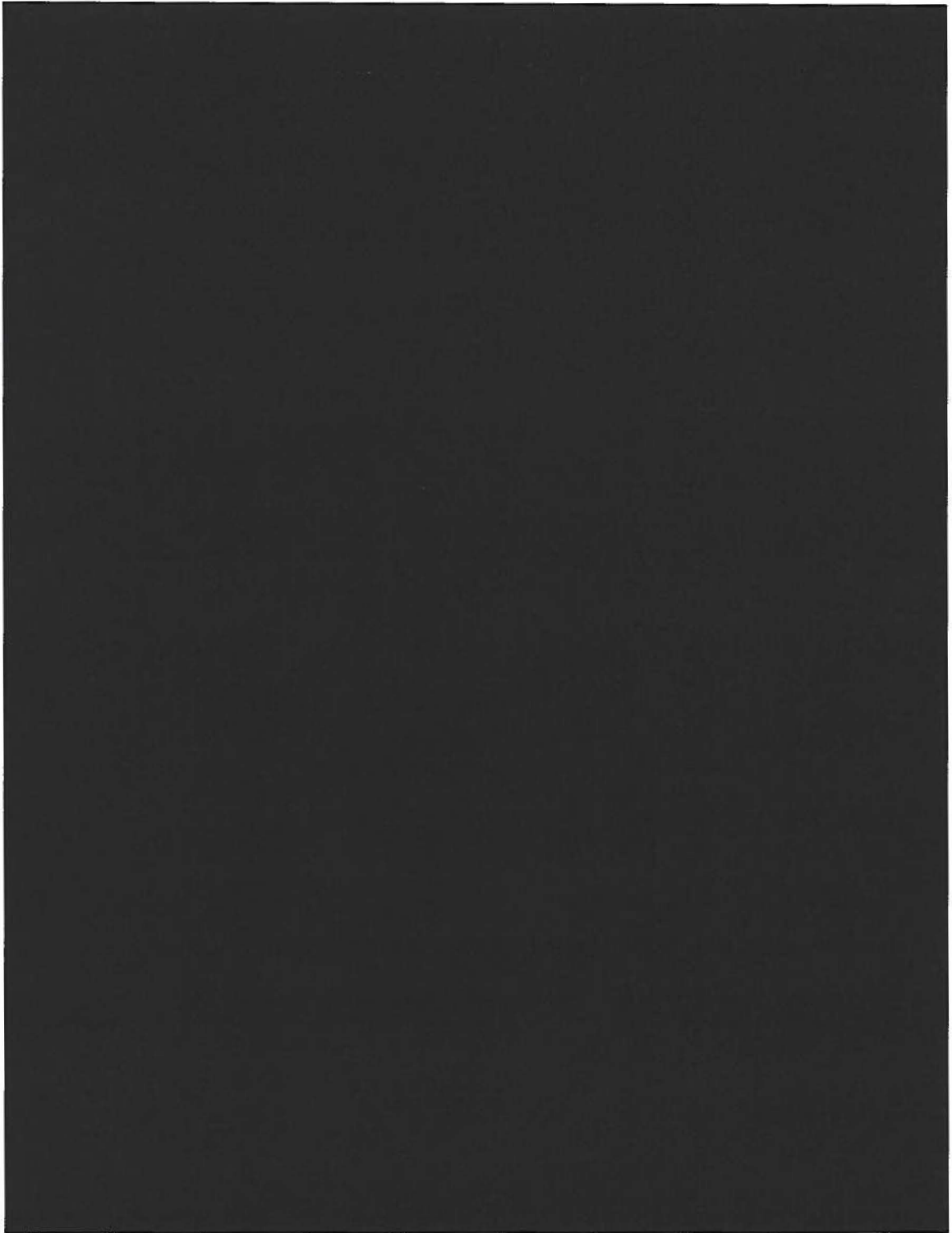
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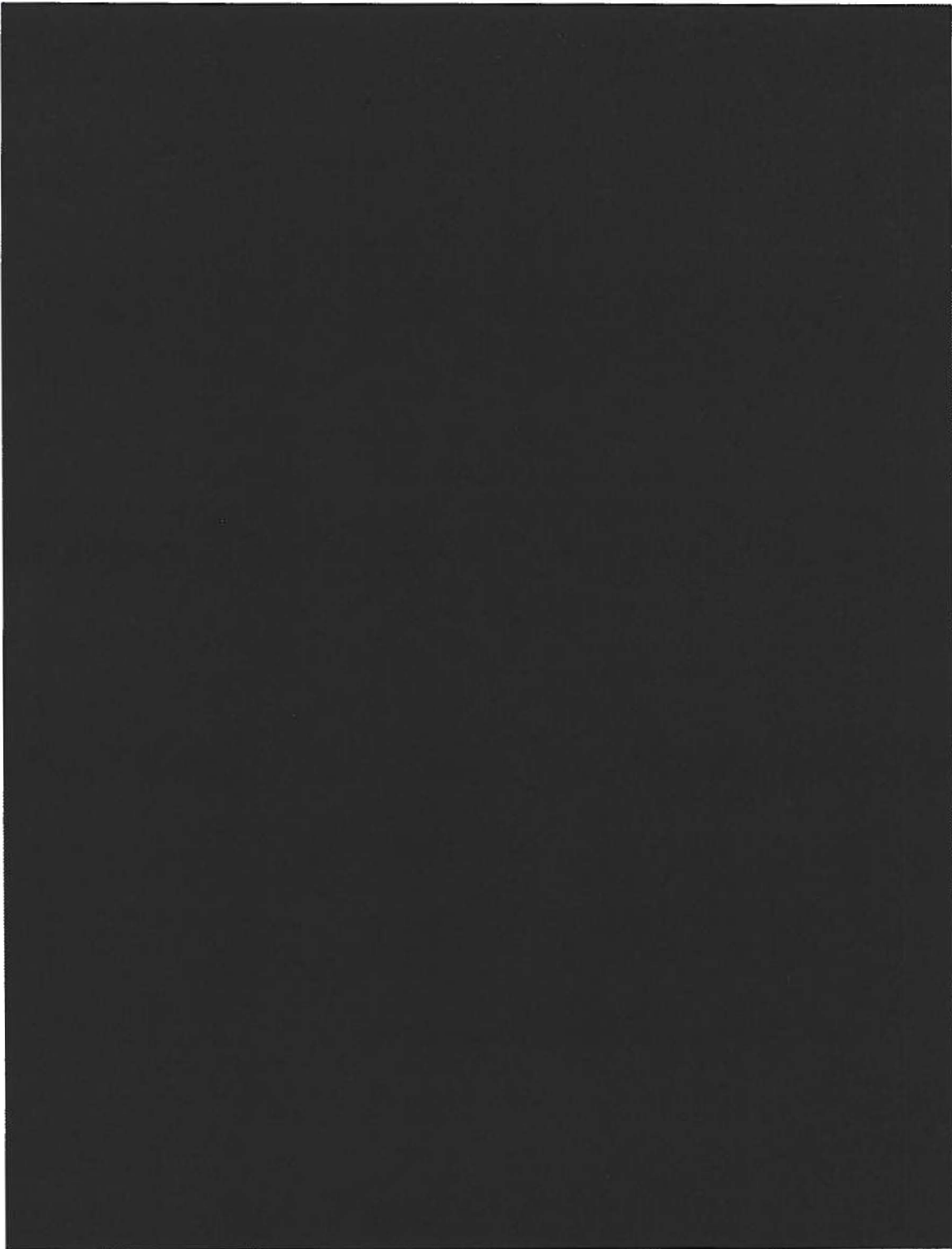
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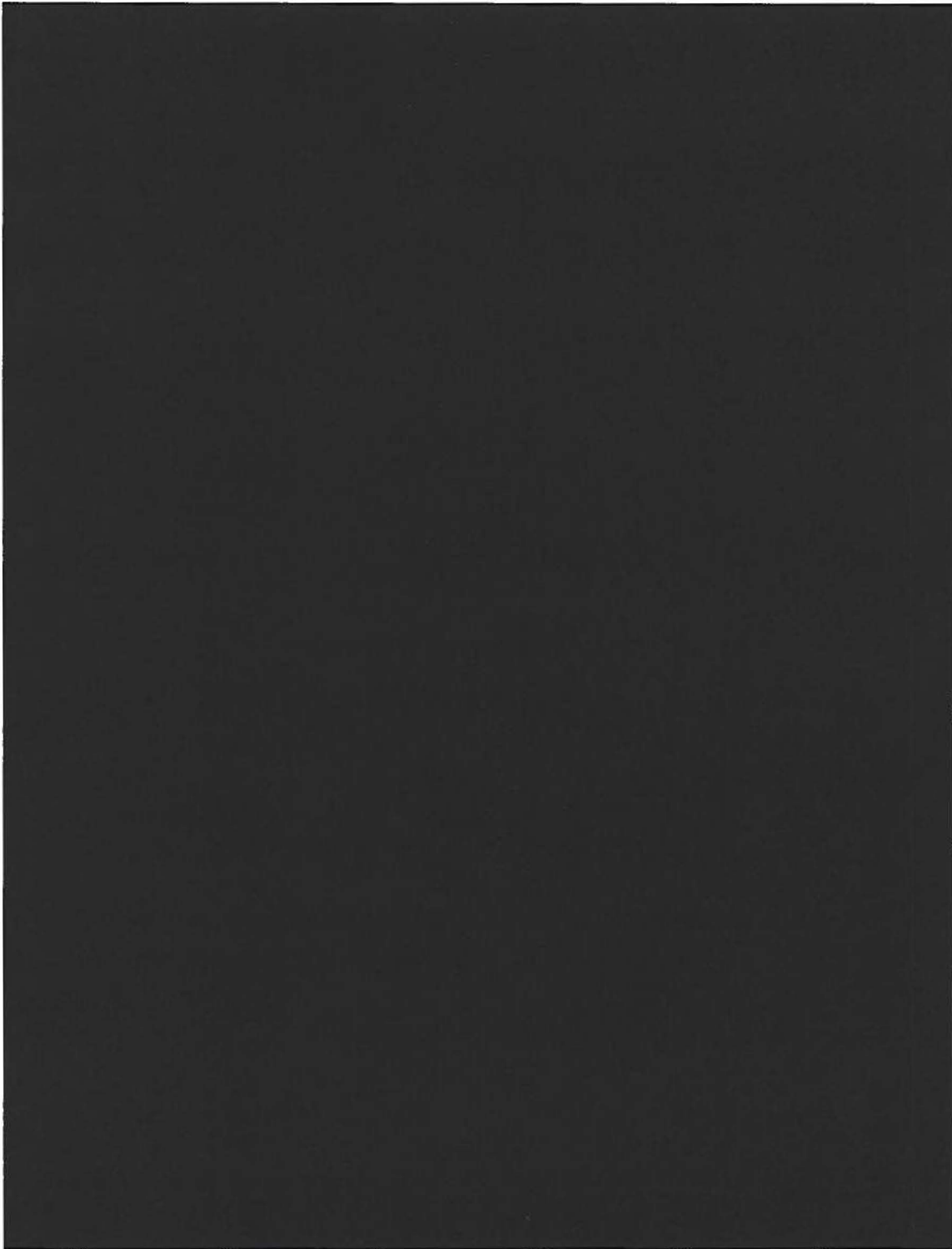
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After the government filed its factual return, Petitioner submitted a request for discovery to Respondents dated August 2, 2017. See Ex. D (attached hereto). The government responded



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on November 8, 2017. *See* Ex. E (attached hereto). On June 18, 2018 and January 11, 2019, Petitioner submitted follow up requests for discovery [REDACTED]

[REDACTED] *See* Ex. F (attached hereto). The parties have further met and conferred over more than two years, in writing and in person, regarding discovery pursuant to the CMO and other applicable authorities. Those efforts have been productive, and thus far have resulted in the government's production of thousands of pages of exculpatory information and other material discovery—most in [REDACTED] documents and information. It is this information, as well as information that Petitioner's counsel have gathered through their own investigation [REDACTED] that forms the factual basis for the proffers set forth above, and below, in support of Petitioner's instant motion for discovery.¹⁵ The same information will also support Petitioner's traverse.

As noted in the parties' joint status report dated June 28, 2019 (dkt. no. 70), the parties continue to meet and confer regarding certain outstanding discovery issues.¹⁶ However, the parties have identified five areas where they agree that the Court's intervention is required to resolve their discovery disputes. As set forth in the parties' classified supplement to the June 28, 2019 status report, those matters include [REDACTED]

[REDACTED]

¹⁵ To the extent that the Court may deem it necessary and appropriate for purposes of resolving the instant motion, including in connection with any hearing on this motion, Petitioner's counsel will prove the factual basis for these proffers through extrinsic evidence, including the hundreds of documents produced thus far by Respondents.

¹⁶ Petitioner respectfully reserves his right to move to compel additional discovery should the parties be unable to resolve any outstanding discovery disputes, including in connection with the government's production of [REDACTED]

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[REDACTED] The other three issues include
 Petitioner's request for production of: (1) a complete and unredacted copy of the Senate Select
 Committee on Intelligence ("SSCI") report on the CIA torture program, which details, among
 other things, the withholding of medical care for Petitioner's wounds¹⁷; (2) videos of Petitioner's
 restorative surgery [REDACTED] in April 2006, which will corroborate the seriousness of his wound
 and the effect of delaying his medical care; and (3) unredacted copies of two documents
 produced by Respondents in discovery entitled [REDACTED] and [REDACTED]

[REDACTED] which contain exculpatory evidence [REDACTED]
 [REDACTED] and/or appear to include other exculpatory, if not material, information.

In addition, Petitioner moves for production of exculpatory evidence: (1) that
 Respondents have disclosed exists during the meet-and-confer process, but that they have
 withheld through individual redactions in documents already produced, and perhaps through

¹⁷ As addressed below, Petitioner also moves to compel disclosure of the sources for a large
 number of exculpatory documents produced to Petitioner during discovery. These documents
 include, for example, but are not limited to, more than [REDACTED] reports produced to Petitioner's
 counsel on February 1, 2019, which are inherently and facially exculpatory. (These documents
 are identified as [REDACTED] and can be provided to the Court as
 needed.) They reference [REDACTED] in the versions produced to
 Petitioner, yet who it is clear [REDACTED]

[REDACTED] These documents thus plainly undermine
 Petitioner's counsel are also virtually certain [REDACTED]

[REDACTED] However, Petitioner's counsel can
 only make educated guesses as to [REDACTED] for these documents, and
 thus are hindered in their ability to argue fully and adequately why the evidence on which the
 government relies is unreliable. As a consequence, the government's refusal to provide [REDACTED]
 information would prevent the Court from conducting a meaningful review of Petitioner's
 detention and thus would violate the Suspension Clause and the Due Process Clause.

¹⁸ The 500-page unclassified executive summary to the report is publicly available on the SSCI's
 website at: <https://www.intelligence.senate.gov/sites/default/files/publications/CRPT-113spt288.pdf>

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~~SECRET//NOFORN~~*Filed with the Court Security Office
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Finally, in order to create a clear record, Petitioner moves for production of other exculpatory evidence or material discovery that Respondents have indicated they are unable to locate, but which would be required to be produced if located. This discovery includes, for example, an FBI document entitled "Guleed001," dated January 31, 2007, which memorialized allegations that Petitioner made to the FBI "clean team" that he had been "threatened with torture during previous interviews." *See* ISN 10023 LHM (Jan. 31, 2007) (referring to separate letterhead memorandum entitled "Guleed001"). As noted above, Petitioner has not been interrogated since and is not designated for prosecution in any forum.

Argument

I. Legal Standard for Production

The government must produce to Petitioner any requested discovery that is exculpatory or otherwise material, meaning that it is at least helpful to Petitioner's habeas case. That obligation derives from multiple sources, starting with Section I.B.1 of the CMO:

The government shall disclose to the petitioner all evidence in its possession that tends to undermine the information presented to support the government's justification for detaining the petitioner." *See Boumediene v. Bush*, 553 U.S. 723, 786 (2008) (holding that habeas court "must have the authority to admit and consider relevant exculpatory evidence that was not introduced during the [Combatant Status Review Tribunal] proceeding"); *Bensayah v. Obama*, 610 F.3d

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718, 724 (D.C. Cir. 2010) ("Any information that has been strategically filtered out of the record in order to withhold exculpatory evidence is ... subject to the disclosure requirement—even if the individual doing the filtering works for a Government agency other than the Department of Justice.").

The Court's authority to permit discovery in this habeas case derives from *Boumediene* and the Suspension Clause as well as the habeas statute. See 28 U.S.C. § 2243 ("The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require."); *Boumediene*, 553 U.S. at 783, 786 (habeas review must be meaningful, and courts must have "authority to admit and consider relevant exculpatory evidence"); *Harris v. Nelson*, 395 U.S. 286, 293 (1969) ("The language of Congress, the history of the writ, the decisions of this Court, all make clear that the power of inquiry on federal habeas corpus is plenary.") (internal quotations and citations omitted); *id.* at 300 n.7 ("[D]istrict courts have [the] power to require discovery when essential to render a habeas corpus proceeding effective."). This Court also possesses broad common-law equitable authority to inquire into the factual basis for detention and order relief. See *id.* at 291 ("The very nature of the writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected."); see also *Boumediene*, 553 U.S. at 779-81 (habeas review is fundamentally equitable).

Disclosure of classified information to counsel is governed by the CMO entered by this Court and the D.C. Circuit's decision in *Al Odah v. United States*, 559 F.3d 539 (D.C. Cir. 2009). The CMO provides that exculpatory evidence under L.B. 1, or discovery (mandatory or ordered in response to a petitioner's motion) under L.C., shall be produced by the government unless the government objects and moves for an exception to disclosure, presenting the information to the Court *ex parte* and *in camera*. At that point the "habeas court should proceed by determining whether the classified information is material and [Petitioner's] counsel's access to it is

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necessary to facilitate meaningful review, and whether no alternatives to access would suffice to provide the detainee with the meaningful opportunity [to contest the cause for detention and the legal power to detain] required by *Boumediene*.” *Al Odah*, 559 F.3d at 548. “Information that is exculpatory, that undermines the reliability of other purportedly inculpatory evidence, or that names potential witnesses capable of providing material evidence may all be material.” *Id.* at 546 (citing *Boumediene*, 553 U.S. at 786). Evidence is also material if it would show that a source is biased or that testimony of a witness was the product of coercion. *See id.* at 545.

The Due Process Clause also applies to these proceedings and mandates Petitioner’s entitlement to the discovery he requests in this motion. The D.C. Circuit recently made clear that the Circuit’s prior decision in *Kiyemba v. Obama*, 555 F.3d 1022, 1026 (D.C. Cir. 2009), is not a barrier to recognition of constitutional due process rights at Guantanamo.¹⁹ *Qassim v. Trump*, 927 F.3d 522, 528 (D.C. Cir. 2019), *sua sponte suggestion for rehearing en banc denied*, 2019 WL 4456055 (D.C. Cir. Sep. 17, 2019); *id.* at 530 (“Circuit precedent leaves open and unresolved the question of what constitutional procedural protections apply to the adjudication of detainee habeas corpus petitions, and where those rights are housed in the Constitution (the Fifth Amendment’s Due Process Clause, the Suspension Clause, both, or elsewhere).”). The Court also noted that the district court may look to the Suspension Clause and the Due Process Clause to ensure habeas review is meaningful as mandated by *Boumediene*. *See id.* at 529.²⁰

¹⁹ In *Bostan v. Obama*, 674 F. Supp. 2d 9 (D.D.C. 2009) (Walton, J.), this Court held that coerced or involuntary witness statements are *per se* inadmissible under the Due Process Clause, but that Guantanamo detainees are not entitled to due process rights based on the Circuit’s *Kiyemba* decision. The Circuit’s *Qassim* decision eliminates *Kiyemba* as a barrier to recognition of due process rights at Guantanamo.

²⁰ The Circuit remanded to the district court on the specific question presented by *Qassim*—his counsel’s access to classified information—with instructions to reconsider “which information would be disclosed under the district court’s case management order” in light of “possible

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As an initial matter, during the meet-and-confer process, the government has disclosed to Petitioner's counsel that it has withheld exculpatory evidence in the form of individual redactions to certain documents produced thus far in discovery. Petitioner's counsel also understands that the government may have withheld other exculpatory documents in their entirety. Petitioner objects to any withholding of exculpatory evidence, which would deprive Petitioner of notice and a meaningful opportunity to challenge the legality of his detention through habeas, and would prevent the Court from conducting a meaningful habeas review of Petitioner's detention, thus violating both the Suspension Clause and the Due Process Clause of the Constitution.

Petitioner also objects to the withholding of discovery that is material but may not rise to the level where disclosure is required because the evidence is exculpatory, particularly absent a court order pursuant to Section I.D of the CMO. Again, Petitioner contends that withholding of such information would affect an unconstitutional suspension of the writ of habeas corpus and a violation of due process. Disclosure should be ordered accordingly.

Moreover, to the extent that the government may request any exception to its disclosure obligations, Petitioner's counsel request the opportunity to present an *ex parte* submission to the Court to explain their theory of this case more fully and adequately, and why an exception to disclosure should be denied. *See United States v. Libby*, 429 F. Supp. 2d 18 (D.D.C. 2006) (Walton, J.) (authorizing defense counsel to make *ex parte* submissions, and, if desired, move for

constitutional disclosure obligations" under the Due Process Clause as interpreted in the criminal context, and the balancing of governmental interests in withholdings against Qassim's ability to meaningfully litigate his petition. *See id.* at 531-32. The Court also noted that "[o]n remand, the district court will be free to modify the procedures set out in the case management order as necessary to facilitate resolution of the constitutional questions raised in this case." *Id.* at 532.

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reconsideration alleging redacted or substitute documents are not sufficient to present their case),
amended, 429 F. Supp. 2d 46 (2006); cf. Classified Information Procedures Act, 18 U.S.C. App.
III, § 4.

III. [REDACTED]

Petitioner moves to compel the government to disclose [REDACTED]

[REDACTED] This request includes [REDACTED]

[REDACTED] In addition,

as noted above, Petitioner also moves to compel disclosure of [REDACTED] a large number of
exculpatory documents produced to Petitioner during discovery, including, for example, more
than [REDACTED] reports produced to Petitioner's counsel on February 1, 2019, [REDACTED]

[REDACTED] See *supra* note 17.

Petitioner contends that [REDACTED] should be disclosed for at least five reasons. First,
disclosure [REDACTED] is
indisputably required by Circuit precedent. [REDACTED]

[REDACTED] Second, given the mountain of exculpatory evidence produced by the government

[REDACTED]—disclosure [REDACTED]

[REDACTED] would likewise be exculpatory because it would allow Petitioner to present additional
arguments [REDACTED]

[REDACTED] It would do so by allowing Petitioner's counsel [REDACTED]

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[REDACTED]
[REDACTED] Third, even if the information were not exculpatory, which it is, it would plainly be material because it would meaningfully assist Petitioner's counsel [REDACTED]
[REDACTED]

[REDACTED] Fourth, counsel access is necessary for the Court to conduct a meaningful review of Petitioner's detention as required by the Suspension Clause and the Due Process Clause. This is so because absent assistance of Petitioner's counsel in addressing [REDACTED] and explaining [REDACTED] the only alternative would be for the Court alone to sift through [REDACTED] classified discovery in unredacted form, including the more than [REDACTED] exculpatory records [REDACTED]
[REDACTED]

[REDACTED] the government has not explained even to Petitioner's counsel. Fifth, there is no adequate substitute for [REDACTED] requested by Petitioner. Without knowing [REDACTED] he will not have a meaningful opportunity to challenge [REDACTED] and the Court will not have the ability to conduct a meaningful habeas review.

In addition, as this Court has explained previously, the government should not be permitted to use information [REDACTED] about which it is not prepared to provide discovery [REDACTED]
[REDACTED]
[REDACTED]

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IV. [REDACTED] Evidence

As noted above, the government relies on evidence [REDACTED]

[REDACTED]

[REDACTED] Petitioner moves to compel production of certain specific evidence [REDACTED]

[REDACTED]

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[REDACTED]

* * *

The foregoing [REDACTED] evidence requested by Petitioner should be produced for several reasons. First, as with [REDACTED] information, [REDACTED] evidence is required by the D.C. Circuit's decision [REDACTED]. Second, the evidence is exculpatory. [REDACTED]

[REDACTED]

[REDACTED] Third, the evidence is otherwise material. [REDACTED]
[REDACTED]

In [REDACTED] specifically, the requested [REDACTED] evidence will allow Petitioner to address [REDACTED] and thus argue [REDACTED]. This is especially important and probative [REDACTED]

[REDACTED]

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[REDACTED]

As with [REDACTED] information, production of the requested [REDACTED] information to Petitioner's counsel is also necessary to ensure that the Court's habeas review of Petitioner's detention is meaningful as required by the Suspension Clause and the Due Process Clause.

V. [REDACTED]

[REDACTED]

[REDACTED] is material because if [REDACTED]

[REDACTED] the government would be required to produce exculpatory evidence

[REDACTED]

[REDACTED] Thus, Petitioner moves to compel production [REDACTED]

[REDACTED]

[REDACTED] should be produced because they will confirm [REDACTED]

[REDACTED] They will do so because [REDACTED]

[REDACTED]

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VI. Other Specific Documents

Petitioner moves to compel production of three additional documents.

A. Petitioner requests unredacted copies of two documents produced during discovery, entitled [REDACTED] (attached hereto as Exhibit J) and [REDACTED] (attached hereto as Exhibit K). The unredacted portions of each of these documents contain exculpatory information [REDACTED]

[REDACTED] Petitioner submits that the redacted portions of these documents, which are lengthy, likely include additional exculpatory evidence [REDACTED]

At minimum, and without waiving his request for production of these documents, Petitioner requests that the Court review the documents *ex parte* in their full and unredacted form in order to determine whether they contain additional information subject to disclosure on the ground that it is exculpatory or material.

B. Petitioner requests that the Court order production of a full and unredacted copy of the SSCI report on the CIA torture program. The 500-page executive summary of the report

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was declassified in part in December 2014, and includes exculpatory evidence concerning delayed care for Petitioner's injuries at the time of his capture.²¹ *See* SSCI Report at 493. The summary also indicates that the CIA failed to obtain information that it had sought to obtain by capturing Petitioner, including information leading to the capture of Abu Talha Al Sudani. *See id.* at 339. Further, the summary reveals the existence of additional volumes of the report that address not only Petitioner's serious medical condition, but also his interrogations, including references to recorded interrogations. *See id.*

The report also appears to include information



Accordingly, the full report—

which the government previously possessed at the time this case was filed, and which another member of this Court has since ordered preserved and is thus presently in the Court's SCIF, *see* Exhibit L (attached hereto)—is likely to include additional exculpatory evidence that undermines the reliability of the government's evidence in multiple respects. The report is also plainly material because it will place Petitioner's capture and detention in appropriate context of the overall CIA torture program, and reveal additional witnesses and information that will be at least helpful to Petitioner's case.

Again, at minimum, and without waiving his request for production of the report, Petitioner requests that the Court review the full and unredacted report *ex parte* in order to

²¹ As noted above, the executive summary is publicly available. *See supra* note 18.

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determine whether it contains additional information subject to disclosure on the ground that it is exculpatory or material.

VII. Discoverable Information the Government Contends it Cannot Locate

During the meet-and-confer process, Petitioner has requested production of certain documents that he contends are exculpatory or material to his case, which the government has searched for but cannot presently locate.

These documents include the FBI document entitled "Guleed001," dated January 31, 2007, which memorialized allegations that Petitioner made to the FBI "clean team" that he had been "threatened with torture during previous interviews." See ISN 10023 LHM (Jan. 31, 2007) (referring to separate letterhead memorandum entitled "Guleed001"); *see supra* at 12.

These documents also include photographs of Petitioner and his wound taken at the hospital at the time of his arrival [REDACTED] in March 2004 by Dr. James E. Mitchell, a CIA-contract psychologist and principal architect of the CIA torture program. See Exhibit A, ¶ 35.²²

In addition, these documents include video of the entire surgical procedure that Petitioner underwent [REDACTED] in April 2006 to repair his wound, and attendant recorded interviews with

²² In his torture memoir, *Enhanced Interrogation* (Crown Forum ed. 2016), Dr. Mitchell discloses that he interrogated Petitioner. Petitioner has also identified former CIA officer [REDACTED] as one of his interrogators.

[REDACTED] Petitioner's counsel have therefore requested permission to interview Dr. Mitchell and Mr. [REDACTED]. Those negotiations are ongoing with them and with Respondents' counsel. If those negotiations are unsuccessful, Petitioner intends to move to compel production of their testimony on the ground that it would be exculpatory and material to Petitioner's case.

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the doctor on the first day Petitioner arrived and on the last day Petitioner was [REDACTED] *Id.*, ¶

74.

Petitioner contends that these materials are exculpatory or material to his case, which the government does not dispute. Accordingly, Petitioner formally requests a Court order mandating the production of these materials, should they be located in the future, in order to ensure that there is a complete record regarding Petitioner's entitlement to production of these materials.

VIII. Conclusion

For all of the reasons set forth above and in his prior filings, Petitioner respectfully requests that this motion should be granted. Should Respondents fail to comply with an order to produce discovery, this Court should order any necessary and appropriate relief, including exclusion of the corresponding evidence that Respondents rely on to justify Petitioner's detention, a determination that the evidence is unreliable, and/or a determination that Petitioner's rebuttal allegations are truthful.

Dated: September 30, 2019

Respectfully submitted,



J. Wells Dixon (Pursuant to LCvR 83.2(g))
Shayana D. Kadidal (D.D.C. Bar No. 454248)
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, New York 10012
(212) 614-6423
wdixon@ccrjustice.org
skadidal@ccrjustice.org

Counsel for Petitioner

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*Filed with the Court Security Office
Pending Classification Review*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing motion was submitted to the Court Security Office on this 30th day of September 2019, for filing with the Court and service on Respondents' counsel.



J. Wells Dixon

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EXHIBIT A

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

GULED HASSAN DURAN (ISN 10023),

Petitioner,

v.

DONALD J. TRUMP, *et al.*,

Respondents.

Civil Action No. 16-2358 (RBW)

DECLARATION OF PETITIONER GULED HASSAN DURAN

I, Guled Hassan Duran, state the following to the best of my personal knowledge, information and belief:

1. I am a Somali citizen. I am detained at the U.S. Naval Station at Guantanamo Bay, Cuba, where I am identified by Internment Serial Number 10023. I am held in Camp 7.
2. I am not a member of Al Qaeda. I have never been a member of Al Qaeda.
3. In December 2003, I was shot in Mogadishu when two men tried to steal my motorcycle. The bullet broke my left arm near the elbow and lodged in my abdomen. When I was shot, I suffered a lot of internal and external bleeding, and I was very weak. My attackers fled, and I was picked up by a minibus used for public transportation that happened to pass by, and I was transported to a private hospital. I went directly into the operating room, and a Somali doctor operated on me. He told me that he needed to open up my abdomen because of the bullet and the bleeding. The operation lasted several hours. It left me with a colostomy bag, but the wound did not heal well.

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4. After I was shot, I remained in the hospital in Mogadishu for two surgeries, one to explore my abdomen and determine the extent of my injuries, and the second to install the colostomy bag. After the surgeries I checked myself out of the hospital, and essentially remained in bed for three months but did not recover from my wound. From the time I was shot in early December 2003 until the time I was captured in early March 2004, I stayed inside and was mostly flat on my back in bed. During this three-month period, I did not leave the house where I was recovering, did not go out even to do errands, and certainly did not have any contact with anyone who was part of Al Qaeda. I was very ill and my wound was not healing properly. I had bandages and the colostomy bag, and could not use my left arm. I still have scars from the wound, and the bullet remains inside me today.

Djibouti

5. I was captured on March 4, 2004, as I was transiting through Djibouti to undergo surgery in Sudan to treat my wound, which still was not healing well. I flew from Mogadishu to Hargeisa in Somaliland, and on toward Djibouti. I traveled with a man named [REDACTED]

[REDACTED] I had planned to travel to Dubai and pay for a medical operation for my wound, but [REDACTED] convinced me to go to Sudan via Djibouti for an operation, which [REDACTED] would pay for. He arranged the entire trip. [REDACTED]

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6. I was captured immediately upon my arrival at the airport in Djibouti. I got off the plane and approached the immigration section. I showed them my passport, and one of the Djiboutian security officials said, "How is your stomach? We're waiting for you." It was clear that they were expecting my arrival and appeared to know about my injuries. They put me in an office, and took my passport and everything in my possession.

7. I was at the airport for only about 10 to 20 minutes. More Djiboutian security people arrived and put me in a car and drove me to [REDACTED]. They did not say anything to me. I was not blindfolded, and could see that the house was in a neighborhood I was familiar with [REDACTED]. I was not handcuffed in the car, I assumed because it was obvious that there was nothing that I could do given my injuries, and because they did not want anyone to see them with someone handcuffed.

8. Inside [REDACTED] I was put in a room and searched. A [REDACTED] man came in and said something like, "Do not worry, people will come to you with covered faces." I asked if these men were Americans, and the man said, "We'll see." Then about six men came in with covered faces, gray or black jumpsuits, and a video camera. They spoke to me in English, and it was obvious that they were American. They were dressed like soldiers.

9. At that point, after I was captured and realized what was happening, I was in shock. I was prepared for the worst. I thought these men might kill me or torture me. I tried to remain calm and not worry. I thought that I might be detained forever, and had to protect myself mentally. Later, when I was held [REDACTED] as described below, I asked my CIA interrogators to kill me. They said something like, "No, we will hold you until you are an old man."

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10. In [REDACTED] I was stripped naked and handcuffed by the CIA officers. My hands were cuffed behind my back, and they cut my clothes off of my body. They filmed me naked with the video camera, and then gave me undershorts and a t-shirt. They chained me to a plastic chair. The room had no windows and empty walls. It was freezing cold because the air conditioning was turned way up and I only had on underwear. There were about four guards in the room.

11. I was given a brief medical check up by a CIA doctor. The doctor saw my colostomy bag and said something like, "oh shit, he's got a colostomy bag." He changed the bag for me. It seemed as if he already knew about my wound generally, but not about the colostomy bag or my broken arm specifically. He also wore a mask and jumpsuit like the others. I think he may have been a nurse or medical assistant, not a doctor. The CIA took photographs of my medical exam, including my colostomy bag and the open wound on my arm.

12. After the doctor left, a team of four CIA officers came in and interrogated me. "These men appeared to be more like soldiers than interrogators. I tried to be cooperative with them but they accused me of lying. They screamed at me and were not very professional. They also threatened me. One interrogator who appeared to be in charge said something like, "Guled, we feel you are lying." Motioning to the other men behind him, he said something like, "Do you see these guys? If you don't cooperate or tell the truth, I'll let them torture you and do whatever they want to you." He also said something like, "If you don't cooperate you will never see daylight again in your life." He drew a map on a piece of paper with an X on it and said you are here in Djibouti. He then drew another X on the other side of the page and connected the two Xs with a line to show that I would be sent far away and never see daylight again. This man was yelling at me with his mask and goggles on, but eventually took his goggles off so that I could

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see his eyes, [REDACTED] He said something like, "Listen, if you don't cooperate we will take you." He was threatening me with rendition.

13. I was interrogated like this for several hours, chained to a plastic chair with my arms behind my back, including my broken left arm that I could not use, and the air conditioning blasting. There was a mattress on the floor of the room where I was held, but I was not allowed to sleep at all during the time [REDACTED] In fact, the lights in the room were kept on constantly and the guards kept me awake the entire time [REDACTED] If I started to fall asleep while chained to the chair, they made noise to keep me awake. I was also not given any food for about 20 hours. Eventually, on one occasion I was given a small amount of food to eat on the night that I was captured. If I needed to use the bathroom, a pillowcase was put over my head and the guards walked me to a toilet. I was allowed to change my own colostomy bag to prevent it from filling up and spilling all over the place, but my wound was not otherwise tended to after the initial brief medical check up.

14. During this time, I was aware that the interrogators were trying to frighten and intimidate me to make me feel vulnerable, so that I would be more cooperative with them.

15. All of this happened on the day I was captured and throughout that first night. It is clear now that throughout the entire time I was held in Djibouti, I was in the custody and under the control of the CIA officers. Djiboutian officers met me at the airport and transported me [REDACTED]

[REDACTED] I do not think there were any other prisoners held with me [REDACTED]

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16. On the second night, after about 24 hours [REDACTED] the CIA officers handcuffed me and put goggles and earmuffs on me [REDACTED]. The car ride [REDACTED] was about 10 or 15 minutes long. When we arrived there, the interrogator [REDACTED] told me that a rendition plane was on its way and they would put me on it when it arrived.

17. After being driven [REDACTED] I was placed in a cell inside a metal shipping container. They took my blindfold off, and a man came in and attached a camera near the door of the cell to watch me. I saw the wires outside the door. The room was a similar design to the cells of Camp Echo II at Guantanamo, where I meet with my lawyers, including a wire mesh partition. There was a thin mattress on the floor of the cell, bare walls, an air conditioner, and no toilet. I asked for food but they refused. They said something like, "If you want food, you have to give us information." I was given only water. The cell inside the shipping container was completely dark except for the light from the camera watching me.

18. Because I was not really eating, my colostomy bag was not changed more than perhaps once for the first 48 hours or so after my capture.

19. Inside the shipping container on the second night after my capture, I was allowed to sleep for about one to three hours total. After I slept, three or four Americans, all big men who looked like soldiers, came in to interrogate me. The interrogation occurred in the darkness. They did not wear masks, except for the interrogator who wore a mask and jumpsuit. They put me on a chair but I was not handcuffed. They told me that the rendition plane was coming and said something like, "Guled, now we will take you to a place where you will never see daylight. The plane will be here soon. Now you have a chance to cooperate with us and stay in Djibouti."

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I told them I was trying to be cooperative, but they accused me of lying. They screamed at me, grabbed the mattress off the floor of the cell, and threw it roughly out of the shipping container. They told me that because I would not cooperate I had to sleep on the ground. Then they left. But because it was freezing cold in the cell I could not sleep.

20. I lost track of time at that point, but on what I believe was the third night after my capture the men came back and took me to a hospital [REDACTED]. Before they took me to the hospital, they let me take a shower because I had not showered at this point for about three or four days. The shower was made of plastic. Two men wearing face masks watched me shower without any covering. I was not given a towel. I was given another pair of undershorts and t-shirt, my face was covered, and I was placed into a car still soaking wet. I was driven for a few minutes to the hospital which was in another temporary building.

21. At the hospital, there were about two doctors or medical personnel. They appeared to be [REDACTED] but were wearing scrubs. I had a problem with my broken arm, specifically the elbow joint. A doctor took what I think was an ultrasound scan of my arm; I could see the image of my arm as it moved in real time on a computer screen. He moved my arm around and flexed it and it hurt badly. He said my arm was not broken anymore but that I needed physical therapy. The CIA interrogator in charge was there and said something like, "You see, Guled, I gave you medical care, now you have to cooperate." I was at the hospital for about 15 minutes, and then taken back to my cell. That was the last time that I saw the interrogator [REDACTED]. I was left alone that night but could not sleep.

22. In the morning, the rendition plane had arrived. Now a new doctor came and gave me a full medical check up including a blood test. He did not wear a mask. Because I had

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not had any food or water, the doctor could not take my blood. He could not find a vein because I was too dehydrated and had not eaten. I was also exhausted but could not sleep. The doctor made the guards give me water. The doctor then did the full check up, including taking out my colostomy bag. The check up lasted about an hour or two. Then the guards came and took me back to the cell in the shipping container.

23. After the final medical check up [REDACTED] a man came to me. He had a beard but no mask. He said something like, "There is another process, and we are taking you to another place." I knew then that it was all over for me. I knew that they were going to take me [REDACTED] somewhere else.

[REDACTED]

24. After the medical exam concluded, I waited about 20 minutes. Three masked men [REDACTED] who did not look like soldiers, came into the shipping container. Two of them came in and took me out of the cell. The third came in, grabbed my hands and tied them behind my back. He took scissors, cut off my t-shirt and undershorts. He photographed me naked, including my genitals. Then he sexually assaulted me, forcibly inserting some sort of anal suppository into my rectum. My hands were then retied in front of me, and I was put in a diaper. I was put into black sports pants cut off at the shin level, and a t-shirt. Then I was placed in five-point-type restraints with my hands cuffed at my waist with a chain. The men did not say anything. They were silent throughout this process.

25. After the restrains were put on, the men wrapped my head in duct tape from my forehead to just above my nostrils. I was totally blind then. The men continued to say nothing. Eventually, when the duct tape was removed from my head after I arrived [REDACTED]

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[REDACTED] as described below, it tore the skin off the bridge of my nose, causing it to bleed. I still have scars on my face.

26. At this point, I told myself to try and be patient, it is all up to God now, have hope but try to accept this life.

27. The man who cut off my clothes, who was [REDACTED] and wore [REDACTED] and [REDACTED]

[REDACTED] was with me from that point forward throughout my time in CIA custody.

28. After my head was wrapped in duct tape, people came into the cell and put ear plugs in my ears and earmuffs on my head. I was totally blind and deaf at that point. They sat me down on a chair while they prepared the plane. I do not know how long this took. The people then stood me up, put me in a car, and drove me a short distance to the plane. The plane appeared to be [REDACTED]

29. The people lowered my head, walked me up the steps onto the plane, and laid me down flat on my back on the floor of the plane. They then wrapped me in something like rope, strapping me down to the ground, as if I were restrained on a hospital gurney. They did not wrap my colostomy bag, however.

30. After maybe an hour on the plane, I had bad pain in my back and wanted to be turned onto my side. I tried to struggle against the straps. The pain was excruciating and I was screaming for someone to help me. The CIA doctor came on the plane with me but did not help me. No one on the plane helped me.

31. The plane took off and flew for a long time. It landed for what seemed to be several hours but I was not taken off the plane. Nor do I think anyone else got on the plane. I was not unchained either, and my colostomy bag was not checked or changed because I had not had any food or water for about 24 hours. The plane eventually took off again [REDACTED]

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[REDACTED] I screamed a lot from the pain until the plane landed again. The doctor checked my colostomy bag once during the long flight. This all occurred on or about March [REDACTED] 2004.

32. When the plane landed again, my straps were loosened and people stood me up and walked me off the plane. I was in very bad pain. They put me in a car [REDACTED] and drove me for a few minutes. [REDACTED]

[REDACTED] I am confident that this was at night. They did not tell me then where I was, but I knew [REDACTED] And later when I was at the hospital they gave me pajamas [REDACTED]

33. After [REDACTED] a [REDACTED] ambulance picked me up. In the ambulance with me were the CIA doctor and three or four people who looked like soldiers [REDACTED] [REDACTED] I saw them when one of the soldiers unwrapped the duct tape from my head. None of them wore masks. (I am not sure these men were actually soldiers, however, or maybe they were CIA contractors. [REDACTED])

34. As I explained above, when they took the duct tape off my head it cut my nose. At this point I was tired, weak, starving and thirsty, and in pain all over my body. Remember that I had also not fully healed from my wound and my arm in particular was very painful. They drove me to a hospital [REDACTED]

35. I could not see out of the ambulance, but the drive to the hospital was short. They walked me in, we took an elevator upstairs, and they put me in a hospital room with one bed. [REDACTED] Americans were waiting for me there. They were CIA, too. One of the men, I later learned, was James Mitchell. (As explained below, I later met his partner Bruce Jessen when I

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was detained [REDACTED] I know their identities because I have seen photos of these men since I was brought to Guantanamo [REDACTED] in September 2006.) The other person waiting for me [REDACTED] was a woman who was strong with grey hair. I think she was maybe [REDACTED] or said she had been in [REDACTED] There were two other men as well. Mitchell walked up to me as one of the other men cut everything off of me including the diaper. Mitchell took photos, including one of my genitals. No one spoke. They then gave me the pajamas [REDACTED]

36. At this time there were [REDACTED] people in the room, including three or four nurses and the soldiers from the ambulance. They took me down in the elevator, and took x-rays of my arm and chest. A special doctor then looked at the elbow joint in my left arm and gave me some exercises to do. Then they took me back upstairs and tied my legs to a hospital bed and tried to take my blood. They could not take blood because I was too dehydrated. They then gave me some food and water and drew my blood. The nurses remained there to monitor me (with the soldiers guarding) for about 24 hours. Having arrived at night, I then slept all the next day with the lights on and the guards watching me. There were no windows in the room.

37. I woke up on my own in the hospital. That night, which was my first full night [REDACTED] James Mitchell and the [REDACTED] woman came in and said something like, "We will take you to another place." This was the first time they spoke to me. They then had me cuffed and shackled my legs, put a hood made out of a pillowcase over my head, and put me in a van that left from the back side of the hospital. They drove me [REDACTED] where I was put in a cell where the sleeping area is on the left side of the room as you look out the door. [REDACTED] The guards uncuffed me and unshackled my legs, and put me in the cell area. Mitchell and the

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woman came in and spoke to me through the metal mesh partition that separates the cell from the other area of the room. The woman said something like, "Sleep, tomorrow we have a lot of work to do." I thought to myself that they are giving me amnesty tonight, but I thought anything could happen tomorrow. I thought that if they tortured me too badly I would probably die from my injuries, and perhaps they would not want to risk that happening. The lights remained on all night, but I passed out after the journey.

38. In the morning, Mitchell and the woman came in and the woman changed my colostomy bag while the guards watched. They brought food and a table and chairs. They took my handcuffs off and shackled me to the partition. Four or five people came in, including Mitchell and the woman. I also saw for the first time a CIA interrogator [REDACTED]

[REDACTED] He said to me at one point something like, "Culed, thank God, you're lucky you have this injury otherwise we'd have you in a dungeon."

There is also a woman in the room who said her name was [REDACTED]

[REDACTED] There was perhaps one other person in the room.

39. Mitchell spoke first and said something like, "You don't have any rights. No ICRC, no lawyer. You're an enemy combatant. You need to tell us what you know." They interrogated me the entire day, asking questions. They denied my request for a Somali interpreter. Mitchell tried to appear smart and knowledgeable, but I could tell he was neither. They broke at lunchtime, gave me some food, and came back in the afternoon.

40. After two or three days of virtually nonstop interrogation, they accused me of playing games and lying to them. They stripped me naked and took away my toothbrush and toothpaste, leaving me with only a towel. I tried to use the towel to cover myself, and they would grab it away from me. For four days they questioned me naked. Every time they

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questioned me they would take the towel away. They took away my towel and the women tried to look at my genitals when they wanted to humiliate me. [REDACTED] looked at my private parts intentionally to degrade me. The cell was also freezing cold. At this point, because of what they were doing to me, I was scared and thought they were going to torture me, so I started to be more cooperative and say what they wanted me to say. I lied and gave them false information, and they gave me my clothes back.

41. My interrogations continued like this all day and all night for a week. They kept me naked. And they kept me awake and I was only allowed to sleep for an hour or two at a time. Mitchell was there for only a few days, and then [REDACTED] and [REDACTED] took over most of the questioning. The older woman came back periodically to tell me to behave if I complained or protested my abuse. There was a camera in the cell throughout the interrogations. They asked me the same questions over and over, mostly about my biographical and background information, and got mad when I did not give them the answers they wanted.

42. In general, at various times they tried to get me to be cooperative; they tried to recruit me to spy for the CIA; they tried to bribe me with cash and medical care; they threatened to make life hell for my family; and they threatened me. They said I was nobody, and no one in Al Qaeda knew who I was. But they also said that they did not even care if I had killed any Americans, which of course I had not done. They did not care about the truth. They simply wanted me to give them the information and answers they were expecting from me.

43. At one point Mitchell asked me why I thought I had been captured. When I responded that I did not know, he said [REDACTED]
[REDACTED]

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Eventually, he came to realize later on that I had been talking about going to Dubai to get a medical operation for my wound.

44. They also became interested in a man named Abu Talha al Sudani. They said I was just his "errand boy" but they said that they still wanted me to tell them information about whether he had a cell that was planning military operations in Mogadishu. They asked me a lot of questions about Abu Talha during the first few days of my interrogation, but I did not give them the answers they wanted. Indeed, it did not matter at all whether I told them the truth or not because they just got mad and accused me of lying. And it was after several days of this that they got really mad and took my clothes, as described above. The [REDACTED] woman got angry and came into my cell by herself, and said something like, "If you don't give us the information I want we will make you naked." She then ordered the guards to come into my cell. Four of them grabbed me by force, threw me against the wall, and crashed my head and face against the wall. Some grabbed my hands and stripped off my clothes. They then cleared out the cell by force, throwing everything out the door. They were really angry.

45. They left me alone for an hour or so and came back and said you have to talk. And as I said above, this was the point where I got scared and said, uh oh, I had better tell them what they want to hear. So for the next four days they questioned me around the clock, naked, with no sleep, about Abu Talha and his cell in Mogadishu. I gave them the answers they wanted, and the [REDACTED] woman said something like, "That's the information we wanted."

46. Yet they continued to push me so I told them that I would provide all sorts of information that was false, such as that I was Al Qaeda, and, at one point, that I was Osama bin Laden himself. I was tired and weak, and depressed, and told them that I would continue to

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make up all sorts of information, however outlandish, and this is the point where they eased up and I got my clothes back finally.

47. All throughout this time, however, I consistently denied that I was actually a member of Al Qaeda. I also denied that I was planning an attack against Camp Lemonnier, although the CIA interrogators did not seem too interested and did not ask me very much about this topic.

48. All of the foregoing interrogations [REDACTED] transpired over the course of about [REDACTED] days. The [REDACTED] woman and a man [REDACTED] who appeared to be the boss then began to try to recruit me to spy for the CIA, albeit unsuccessfully. (Later, when I was held at the black site [REDACTED] the man [REDACTED] told me this was my last chance to cooperate, and if I did not agree to work for the CIA I would go to a place where I would never leave, [REDACTED].) Indeed, as I explained above, they first offered to send me to Somalia or Dubai to spy for them; then they offered to bring me to the United States to spy on mosques; they offered me suitcases full of money; and they threatened to send the FBI to make my family in the United States miserable. At this point I got very angry and said that I would tell them what they wanted to hear about Al Qaeda in order to get them to stop threatening my family.

49. After all of this transpired, and the man [REDACTED] gave me my clothes back, the interrogations continued around the clock for another day. Then, at sunset the next day, he and the [REDACTED] woman surprised me in my cell. They came in and announced that they were taking me to another place in one hour, so I should get ready. It was only at this point that the round-the-clock interrogations ceased. But I was still unable to sleep because I was exhausted and depressed. And when the men came for me again, it was the same rendition protocol as

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before, including the men in masks cutting off my clothes, the sexual assault and diapering, wrapping my head in duct tape and so forth. I was walked out [REDACTED] to a waiting car with soldiers on each side of me. The car [REDACTED] drove to the airport and right up to the rendition plane, [REDACTED] that rendered me from Djibouti [REDACTED]

[REDACTED] I was walked up the steps and onto the plane, and was seated rather than strapped to the floor. [REDACTED]

[REDACTED] I had the sense that other prisoners were on the plane as well. The plane took off and I was rendered [REDACTED] at the end of March 2004, probably around [REDACTED] but perhaps as late as early April 2004. I slept the entire flight until landing [REDACTED] because I was exhausted.

50. When the rendition plane arrived [REDACTED] I was unshackled while still on the plane. My hands were zip-tied behind my back. The CIA officers walked me down the steps of the plane and turned me over [REDACTED] on the tarmac at the bottom of the steps to the plane. [REDACTED] put me in a van or small bus and drove [REDACTED] to a prison near [REDACTED] I was told the name of the prison but cannot remember it.

51. When I arrived at the prison, I was placed in a cell and the zip-ties were cut off. The duct tape was also removed from my head, and the guards welcomed me [REDACTED] I knew where I was because one of [REDACTED] guards told me, and I could tell they were [REDACTED]

52. [REDACTED] guards did not cover their faces. They gave me [REDACTED] food and closed the cell door. The cell had a mattress, a light and a camera. The guards did not check my injuries, however, and I was unable to change my colostomy bag. They said that it is midnight

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and they do not have any colostomy bags; they said I would have to wait until the morning when the Americans arrive. But in the morning no one came.

53. I was held in this prison until about February 2005. Throughout my detention [REDACTED] it was clear to me that although [REDACTED] guarded the facility they were not in charge of the area where I was held. The section where I was held was locked off and clearly controlled and operated by the CIA. It was used exclusively by the CIA for interrogations, and I was their prisoner.

54. Eventually the [REDACTED] woman and the [REDACTED] man [REDACTED] arrived and let me change my colostomy bag. The [REDACTED] woman showed me how to do some exercises and move my arm around to increase flexibility. The area where I was held had about five to ten cells, and I could hear other prisoners yelling under the doors or out the food slots in their cells at night. The [REDACTED] woman asked me about them, but I did not know them. Then a noise maker was put in the hallway so that the prisoners could not hear each other.

55. I was not interrogated for the first two days that I was held [REDACTED] But then [REDACTED] and [REDACTED] showed up, and I was interrogated every day [REDACTED] They interrogated me only during the day, and let me sleep at night. I was very worried that I would be abused as I had been [REDACTED] because we were in a black site. In fact, I later learned that other detainees were badly tortured [REDACTED] I was never interrogated by [REDACTED] only by the Americans.

56. Because I had already given my interrogators the information and answers they wanted [REDACTED] which they did not ask me to repeat again, my interrogations [REDACTED] essentially consisted of their requests for assistance. For example, they would bring

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me photographs from Afghanistan and ask me if I knew this person or that person. They were trying to keep me busy, but it was not a real interrogation. The interrogations quickly dwindled to a few times a week.

57. The remainder of the time I was held [REDACTED] I was allowed to exercise and use a media room. But I was not able to see the sky. [REDACTED] guards moved me to and from the recreation area, and gave me food and coffee. I gave them my old clothes when I got new ones. I also memorized the Koran. Yet for the entire two and a half years that I spent in CIA secret detention, I did not see a single person who was not a guard, interrogator, soldier, doctor, or, eventually, two social worker-type people named [REDACTED] and [REDACTED].

58. Toward the end of my time [REDACTED] in about January or February 2005, a man who I later learned was CIA contractor Bruce Jessen showed up. He interrogated me once for about 20 or 30 minutes, and covered all of my background information. He said something like, "You're not a big guy, maybe we will give you back to the Djiboutian authorities. We're almost at the point where we're going to return you to the Djiboutian authorities. We cannot return you to Somalia." He was not a professional interrogator; as I know now, he was a professional torturer.

59. As I said above, by this point the [REDACTED] woman and the others essentially left me alone. The man [REDACTED] was also gone by now; [REDACTED]. There was a new CIA boss, [REDACTED] who also eventually becomes the boss [REDACTED]. The [REDACTED] woman also offered me a girlfriend, which I took to mean that she was offering me sex.

60. But to this point I still received no medical care for my wound, despite the fact that I received a medical check up every six months from the same CIA doctor who examined

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me [REDACTED] in Djibouti. And so while I was held [REDACTED] and again while held [REDACTED] the area around my colostomy bag became infected. I was given antibacterial wipes to clean it, but the fact is that the colostomy bag was a persistent problem and my wound was not healing from lack of adequate medical care. The bullet also remained inside my abdomen, in the muscle, and I was told that it was too risky to try to remove it. As I explain below, it was not until a decision was made in late 2005 or early 2006 to transfer me to Guantanamo [REDACTED] that I was sent [REDACTED] to receive adequate medical care for my wound. In retrospect it seems that the CIA had about six months to try to "fix everyone" and repair the damage that they had done as a result of torture, so our conditions improved. [REDACTED] was my clean up period. They did not want me to arrive at Guantanamo looking like a torture victim with a colostomy bag after two and a half years in CIA detention, and said to me something like, "You'll finally get some medical care. Now is the time for your surgery," meaning now you will have a chance to have surgery to treat your wound.

61. In any event, in early 2005, when Jessen arrived [REDACTED] guards said the Americans are going to take you, there are a lot of them here, and asked for my forgiveness. I thought that I might be sent [REDACTED] but the guards said the CIA was taking everyone together.

62. Then the Americans came to me and gave me a big meal. They said we are moving you, get ready, collect your Koran and clothes, whatever you want to take. This was during the day. Then at night they came for me and the [REDACTED] prisoners. [REDACTED] walked each of us out of our cells one by one. I was one of the last, and they put goggles on me. They brought me to a big interrogation room. The [REDACTED] boss was there and some American guards, but no [REDACTED]. They cut off my clothes, photographed me naked, sexually assaulted

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and diapered me, wrapped my head with duct tape (this time with a bandage over my eyes to prevent more cuts and scarring), put goggles and earmuffs on, and placed me in a large van or bus with other prisoners. They drove us to the airport and walked us up the steps of a [REDACTED] plane, and seated us in the plane. I felt like a parcel, and slept on the plane.

63. In February 2005, I and the [REDACTED] prisoners were flown from [REDACTED] to a black site [REDACTED]. When the plane arrived, the other prisoners and I were put on a bus. We were forced to lie down on the floor of the bus, on top of what appeared to be sleeping bags, and I could feel other detainees right next to me. The guards instructed us not to yell or talk, and not to sit up because they didn't want anyone to see us. We went through the same process when we eventually arrived at the black site [REDACTED] in about March or April 2006.

64. The bus drove us for a long time, [REDACTED] before we arrived at the black site [REDACTED]. They took us off the bus one by one, and down some stairs, like we were going underground into the basement of a building. They put me into a brand new cell. I was standing and they cut everything off of me. I saw the [REDACTED] boss standing there photographing me naked. I was given new white sweat pants, top and bottom, and soap and a towel. At this point I was filthy because I had eaten the large meal before leaving [REDACTED] and my colostomy bag was full. So the CIA officers let me take a shower. And after an hour or so, they gave me a small amount of terrible food to eat. It was cold and awful; the CIA was punishing us. I refused to eat the meat because I could not identify it. They also brought a heat lamp so that I could get some UV light. As I mentioned above, to this point I had not seen the sky since my capture.

65. My cell [REDACTED] was somewhat similar in design to the cells in [REDACTED]. I could not communicate with other prisoners or hear outside my cell, however, because of

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constant heavy noise like an air conditioner. There were also no windows. I could not tell if it was day or night the entire time [REDACTED] I could not see the sky and had no watch. The CIA kept us off-balance intentionally by giving us the wrong prayer times which they said was for security reasons.

66. Then a routine set in. After my first month [REDACTED] no one came to see me or interrogate me. Occasionally someone would come and show me photographs, but it appeared to be a half-hearted attempt to keep me busy. Sometimes the interrogators would ask me hypothetical questions, but mostly they showed me photographs. As I explained above, [REDACTED] was also the last time when the CIA tried to recruit me to spy for them. The CIA said in essence, just before we left [REDACTED] "Work for us or go somewhere you will never leave."

67. Indeed, by the end of 2005, we knew that something was changing although we did not know what. For example, the guards [REDACTED] stopped wearing masks, and stopped threatening us. They would also sometimes wheel a DVD player into my cell to let me watch movies. I also learned later that they tried to cover up some of the torture that other prisoners experienced [REDACTED] for example, closing the places where detainees were hung by their arms. They also told me that we were going to be transferred to a new location, and a week or two after arriving there they would take me somewhere else finally to have surgery as mentioned above.

68. In March or April 2006, I and the [REDACTED] prisoners were flown [REDACTED] As I explained above, the CIA brought us there to recover after being tortured and abused in CIA secret detention. And we were treated well [REDACTED] We were given a menu for breakfast and told to eat whatever we wanted. It was as if the CIA

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was trying to fatten us up. [REDACTED]

69. After one or two weeks [REDACTED] the CIA flew me [REDACTED] for surgery for my wound. I was seated in the plane, with only Americans, but was not put in a diaper. At the airport [REDACTED] I was picked up by [REDACTED] security. They told me that I was going to have surgery, but did not say where. I was taken by ambulance directly from the airport to a hospital [REDACTED] and was put in a VIP room with armed guards [REDACTED]. The hospital was large. I was attended to by a [REDACTED] doctor and [REDACTED] nurses. The doctor was very professional and spoke to me in English. The guards were always present, wearing black suits and masks. I have no doubt that the guards were [REDACTED].

70. When I arrived at the hospital, however, I had to wait a few days for the surgery. Because the doctor had no records, he had to examine me from top to bottom. I was placed inside a computer like a scanning machine so that the doctor could see my whole body. (I have also been inside a similar machine since arriving at Guantanamo in 2006.) Before the surgery, the doctor said he would do his best to connect the bowel but the wound has existed for so long that sometimes it is impossible even to suture through the scar tissue. The doctor made me sign an authorization saying that if the bowel started to leak he could open me up and try to repair it. He said that sometimes the stomach can get very bloated which is a sign that things are going badly. I was also given a liquid diet through my stomach and medication to clear my bowels, which took three days.

71. Then a few days after I arrived [REDACTED] the doctor began the surgery. I was given general anesthesia. The procedure lasted several hours, and when it was completed the doctor came in and said we will wait 48 hours to see if your stomach bloats up. Thankfully

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everything went well. For the first four days I was on an IV. Then I started to drink something. I started with a quarter of a cup, and after a few days I could have some soup. But after a day or two mucus would come out of my rectum. When I eventually ate something of substance I started to have normal bowel movements. These were the first normal bowel movements I had had in two years.

72. I was also in bad pain and could not move the side part of my body.

73. The surgery was a success, but due to the severity of the procedure, I remained in the hospital [REDACTED] for about one month until I began to return to normalcy and the doctor approved my discharge.

74. The CIA took a video of the entire surgical procedure, and recorded interviews with the doctor on the first day I arrived and on the last day. I know this because everything took place right in front of me. The recording and the interviews were not a secret.

75. In late April or early May 2006, after my wound started to heal, I was sent back [REDACTED] where I would remain until my transfer to Guantánamo on or about September 6, 2006. My face was covered and I was driven in hospital clothes from the hospital to airport for the return trip [REDACTED]. Then once I was loaded onto the plane, [REDACTED] and out of site [REDACTED] the CIA officers began the usual rendition process of cutting off my clothes, taking photographs, and so forth.

76. When I arrived back [REDACTED] I was placed back in my cell in solitary confinement. I was given an electronic Koran and a portable DVD player to keep me busy. I was also allowed to exercise. The prison was above ground and temporary, made of wood. [REDACTED]

[REDACTED]

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77. I was not really interrogated [REDACTED] although sometimes the CIA officers asked me questions sometimes when they would get information from places like Afghanistan, to keep me busy. All the time I was in my cell, and as mentioned above, [REDACTED]
[REDACTED]

78. Then one day one of the senior CIA officers came and said we were moving to another place in the coming days. They took pictures of us, and, for the first time, DNA samples from me. One or two days later they came for more. Eventually we were all loaded onto a plane. We were not placed in diapers; if we needed to go to the bathroom the guards would help us to urinate standing up, I think into a hole. [REDACTED]
[REDACTED]

[REDACTED] It seemed like there were both CIA officers and soldiers on the planes with us.

79. They told us that we were being taken to a military base. When I asked if we were going to Guantanamo, the person laughed and said he could not tell me but we were no longer going to be in CIA custody, we would be held in military custody. The first time since my capture [REDACTED] was after I arrived at Guantanamo [REDACTED]
[REDACTED]

80. [REDACTED]
[REDACTED]

81. During the entire two and a half years that I was in CIA detention, I did not speak to another prisoner. Even the guards did not speak to me for most of that time. It was only after

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arriving at Guantánamo in September 2006 that I was able to speak with another prisoner, Khalid Sheikh Mohammed, who was my assigned recreation partner. I did not know who KSM was, and KSM did not know who I was. KSM had to tell me who he was; KSM thought I was someone else, a Pakistani man named Hassan Ghul. It was very strange to speak with another person after so long, although I could not see him because we were separated. Eventually a mirror was placed between our cells in Camp 7 so that I could see KSM.

82. Almost immediately after I arrived at Guantánamo [REDACTED] the ICRC came to visit me and the other men in Camp 7. They had been expecting us to arrive. I met with them in Camp Echo and told them all about my torture and abuse. They told me that my mother had died from stomach cancer in 2005. I was able to write my family letters for the first time, and after two months was able to receive responses from them.

83. I was also interrogated by two FBI agents and someone who I think was just a security person at some point after arriving at Guantánamo in September 2006. This may have been in late 2006 or early 2007, I do not remember. I was told in advance by other prisoners in Camp 7 that the FBI "clean teams" were here trying to obtain information untainted by the CIA torture program. I was brought to see them in [REDACTED] and they said they wanted to ask me questions about Abu Talha. I knew what they were trying to do, and I did not want to help them get around their torture problems, so I said I did not know Abu Talha and refused to answer their questions. They tried to bluff and say that Abu Talha told them he knows me. I told them to go away, and said that if they wanted to build a case against me they would have to use information obtained from the CIA black sites. The FBI did not ask about my wound or the CIA's withholding of medical care, but at one point said something like, "See, we fixed you, we gave you medical care in the black sites." The interrogation lasted about 10 to 20 minutes. I told

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them not to come back, and that I would never agree to meet with them. I have not been interrogated by anyone since in more than ten years.

84. It was only during the roughly 10-day period [REDACTED] in March 2004 when I was sleep-deprived, naked and sexually humiliated, afraid of what was going to happen to me, and otherwise abused, that I provided information to the CIA about topics such as Abu Talha. Although I was asked follow up questions once or twice [REDACTED] after that initial time period [REDACTED] I was not really asked for, and did not provide, any new or additional information to the CIA about these topics. Nor did I correct any false information that I had provided [REDACTED] [REDACTED]

85. Moreover, I want to be clear that interrogators withheld medical care for my wound throughout my time in CIA detention, including for the purpose of pressuring me to cooperate and spy for them. Medical care was used as a lever for my interrogations, and I gave the CIA the information and answers they wanted in part in order to obtain the medical care I needed. Yet even then the CIA deliberately withheld medical care. I knew at that time that the longer I waited to have surgery for my wound, the more likely I was to develop infection, or, worse, to have scarring that would not allow the wound to be surgically repaired correctly. I knew this because the first doctor who treated me in Somalia told me this, and said that I should not go for more than six months without further care to repair the wound. The [REDACTED] doctor who operated on me [REDACTED] also confirmed this for me, and told me that I was lucky I was not worse off from the time period that had passed without care.

86. When I was [REDACTED] right before I left [REDACTED] I repeatedly asked to have my wound closed and the CIA kept it open to get me to work with them. They did not say this to me explicitly, but it was clear to me from their actions. They kept

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asking me about Al Qaeda, and seemed to think that the longer they waited to provide me with medical care the more likely I was to surrender and agree to whatever they wanted from me. As I explained above, I received no adequate therapeutic medical care until about six months before my transfer to Guantanamo in September 2006, when I was sent [REDACTED] so that I could be "fixed" and the CIA could try to cover up its neglect – and exploitation – of my injuries before sending me to Guantanamo.

87. As a result of the long period of neglect, I continue to suffer from my prior injuries. In 2010, I had another surgery at Guantánamo to treat an intestinal issue, which I was told was an emergency procedure necessary to fix a problem with my bowel. My stomach had become distended and anything I ate or drank would come back up. I could not sleep or stand, and was in a lot of pain. I think it was a bowel blockage or obstruction caused by scarring from the long delay in addressing my colostomy bag and improper healing of my wound. I was given a scan or something similar, as I explained above, and agreed to the surgery. I was in the hospital for about a week. But military officials at Guantanamo have not told me specifically why the surgery was necessary, and will not give me copies of my medical records, which I have requested. I also continue to suffer from chronic pain and constipation, respiratory problems, and generally poor health.

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I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct to the best of my personal knowledge, information and belief.

Dated: th 20 September 2018


Guled Hassan Duran
ISN 10023

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____	X	
GULED HASSAN DURAN (ISN 10023),	:	
	:	
<i>Petitioner,</i>	:	
	:	
v.	:	Civil Action No. 16-2358 (RBW)
	:	
DONALD J. TRUMP, <i>et al.</i> ,	:	
	:	
<i>Respondents.</i>	:	
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PETITIONER'S FIRST REQUEST FOR DISCOVERY

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centerforconstitutionalrights

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August 2, 2017

Via Court Security Office

Timothy A. Johnson, Esq.
 U.S. Department of Justice
 Civil Division, Federal Programs Branch
 20 Massachusetts Avenue, NW
 Washington, DC 20530

Re: Petitioner's First Request for Discovery
Duran v. Trump, 16-cv-2358 (RBW) (D.D.C.)

Dear Tim:

I write on behalf of petitioner Guleed Hassan Duran (ISN 10023) ("Duran") in the above-captioned habeas case. Further to our previous discussions, and pursuant to 28 U.S.C. § 2241 *et seq.*, 28 U.S.C. § 1651, *Harris v. Nelson*, 394 U.S. 286 (1969), *Al Odah v. United States*, 559 F.3d 539 (D.C. Cir. 2009), *Parhat v. Gates*, 532 F.3d 834 (D.C. Cir. 2008), and other applicable law, I request that the government produce the following discovery:

1. All exculpatory evidence in the government's possession, custody, or control that might reasonably be considered favorable to Duran's habeas case, and without regard to whether the failure to disclose it likely would affect the outcome of his case. This request includes without limitation the government's mandatory disclosure obligations under the case management order entered in prior detainee habeas cases. This request also specifically includes without limitation evidence in the possession, custody, or control of the CIA.
2. Any documents and objects within the government's possession, custody, or control that are relevant and material to the preparation of Duran's habeas case. This request includes without limitation the government's mandatory disclosure obligations under the case management order entered in prior detainee habeas cases. This request also specifically includes without limitation documents and objects in the possession, custody, or control of the CIA, [REDACTED]
3. Access to a complete and unredacted version of the Senate Select Committee on Intelligence's *Committee Study of the Central Intelligence Agency's Detention and Interrogation Program*, the executive summary to which was declassified in part in December 2014, and which is currently in the possession of the Court pursuant to preservation orders entered in other detainee habeas cases. This request includes without limitation Volume II of the Study, which references "recorded interrogations of Guleed Hassan Duran" (Ref. n.1910); Volume III, which references a "detainee review" for

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"Hassan Guleed," including his "lack of adequate medical care at CIA detention sites" and "care delayed for serious medical issues" (Ref. p.493); and any other sections of the Study that reference Duran.

4. Access to a complete and unredacted version of the CIA's response to the SSCI Study, including without limitation sections of the response that reference Duran.
5. To the extent the government may dispute the accuracy of the SSCI Study, access to a complete and unredacted version of the parallel CIA report known as the "Panetta Review" that reportedly corroborates the findings and conclusions of the SSCI Study, including without limitation any sections of the Review that reference Duran.
6. All of Duran's medical records from the time period beginning December 1, 2003 and continuing through the final conclusion of this case. This request includes all records of Duran's physical and mental health, including without limitation records relating to:
 - a. A gunshot wound that resulted in a broken left arm and a bullet in his abdomen;
 - b. His colostomy bag;
 - c. Surgeries conducted [REDACTED] including all notes, photographs, videotapes or other recordings of such procedures;
 - d. The name and current contact information for the [REDACTED] surgeon who operated on Duran [REDACTED] in 2006;
 - e. Other medical check ups or procedures, including photographs, x-rays, blood tests, radiological scans, treatment plans and medications;
 - f. The withholding of medical care to pressure Duran to cooperate with the government;
 - g. The use of medical care as a lever for Duran's interrogations;
 - h. Any other withholding of adequate therapeutic medical care;
 - i. Duran's continued suffering from his wound and the aftereffects from the long period of withheld and neglected medical care.
7. For each exhibit to the factual return, [REDACTED]
8. Any evidence indicating [REDACTED] in the factual return were [REDACTED]

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15. The CIA rendition protocols applied to Duran, including without limitation the protocols applied when he was rendered [REDACTED] in March 2004.
16. All evidence that Duran was subjected to sleep deprivation, forced nudity, sexual assault, threats to him or his family, or other similar interrogation techniques, whether approved or not by the CIA.
17. Any final memoranda prepared by the Department of Justice Office of Legal Counsel concerning Duran, including without limitation any memoranda authorizing his CIA capture, rendition, detention and interrogation, and/or relating to his medical condition.
18. Any FBI 302s or similar reports of interrogations of Duran after his arrival at Guantanamo in September 2006, including without limitation reports in which he denied involvement with Al Qaeda and/or Abu Talha Al-Sudani.
19. Any final reports or recommendations of the Guantanamo Review Task Force concerning the determination to continue to detain Duran indefinitely under the laws of war rather than approve him for transfer or designate him for prosecution, including without limitation any analysis or conclusions about the credibility or reliability of any evidence on which the government now relies in the factual return.

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20. [REDACTED]
21. [REDACTED]
22. [REDACTED]
23. [REDACTED]
24. [REDACTED]
25. [REDACTED]
26. [REDACTED]
27. [REDACTED]
28. [REDACTED]
29. [REDACTED]
30. [REDACTED]

I further request that the government provide notice of any exculpatory evidence or other discovery that the government is aware exists, may exist or once existed, but has not been produced because it has been lost or destroyed, or is otherwise not "reasonably available."

. Finally, I reserve the right to supplement this request or seek further discovery.

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~~TOP SECRET//CODEWORD~~

Please let me know if you have any questions concerning this request. I am available to meet and confer at your convenience. I can be reached at (212) 614-6423, or at wdixon@ccrjustice.org.

Very truly yours,



J. Wells Dixon
Senior Staff Attorney

Counsel for Petitioner

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EXHIBIT E

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U.S. Department of Justice
Civil Division

Federal Programs Branch

20 Massachusetts Avenue N.W.
Washington, D.C. 20530
(202) 616-9495 (telephone)
(202) 305-2685 (facsimile)

November 8, 2017

VIA CSO

J. Wells Dixon
Center for Constitutional Rights
6666 Broadway Avenue
New York, NY 10012
Tel: 212.614.6464

Re: The Government's Responses to Petitioner's First Requests for Discovery,
Duran v. Trump, 16-cv-2358 (RBW) (D.D.C.)

Dear Wells:

(b) I am writing to respond to the discovery requests in your letter dated August 2, 2017. I will respond to each request in the following numbered paragraphs, which correspond to your letter's numbered paragraphs:

1. (b) The Government will fully comply with Section I.B of the Case Management Order ("CMO")—"Exculpatory Evidence"—issued by Judge Walton on September 11, 2017.
2. (b) The Government cannot agree to the first part of your request. In the first sentence you ask Respondents to conduct a government-wide search for "[a]ny documents and objects . . . that are relevant and material[.]" Such a request is not "narrowly tailored," as required by CMO Section I.C.3.

(b) That said, Respondents have complied with the terms of CMO Section I.C.2—the so-called "mandatory disclosure obligations"—and will continue to do so. In particular, the Government's factual return includes all of the documents relied upon by Respondents to justify your client's lawful detention.

[REDACTED] In addition, as noted above, Respondents will comply with CMO Section I.B.

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~~(S)~~ To the extent you are seeking disclosures that are not required by CMO Sections I.B. and I.C.2, your letter does not adequately explain how your request "will enable the petitioner to rebut the factual basis for his detention[.]" [REDACTED]

3. ~~(S)~~ Respondents cannot agree to your request. The "complete and unredacted version" of the Committee Study of the Central Intelligence Agency's Detention and Interrogation Program authored by the Senate Select Committee on Intelligence ("SSCI Study") is a congressional record subject to congressional control. *See ACLU v. CIA*, 823 F.3d 655, 667-68 (D.C. Cir. 2016). Further, the SSCI Study contains classified information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities.

~~(S)~~ In addition, you have not demonstrated how the requested record "will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3. [REDACTED]

4. ~~(S)~~ Respondents cannot agree to your request. The "complete and unredacted version" of the CIA's response to the SSCI Study contains classified information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities.

~~(S)~~ And again, you have not demonstrated that the requested record "will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3. [REDACTED]

5. ~~(S)~~ Respondents cannot agree to your request. The "complete and unredacted version" of the so-called Panetta Review contains classified information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities.

~~(S)~~ And like the two prior requests, you have not demonstrated that the requested record "will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3. [REDACTED]

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6. ~~(S//NF)~~ Respondents have already produced information responsive to your request, in compliance with CMO Sections I.B.1 and I.C.2. [REDACTED]

~~(S//NF)~~ With regard to subsection (f) and (g), Respondents consider this type of information to be exculpatory and/or responsive to CMO Sections I.B.1 and I.C.2, to the extent it pertains to statements relied upon by the Government in the factual return. And in fact, Respondents have explicitly asked the relevant agencies for all information pertaining to the statements on which the Government relies. In the event the sort of information you have requested exists and becomes known to Respondents, the Government will produce the information or seek an exception from disclosure pursuant to CMO Section I.D. [REDACTED]

7. ~~(S//NF)~~ Respondents have provided you with some of the information responsive to this request. [REDACTED]

~~(U)~~ To the extent possible and consistent with national security interests, we have [REDACTED]

~~(U)~~ Similarly, we have released as much detail as your security clearance, need-to-know, and national security interests permit [REDACTED]

8. ~~(U)~~ The Government is committed to conducting a comprehensive review for all exculpatory evidence [REDACTED] consistent with the CMO. This includes not only [REDACTED] but also any information that would undermine [REDACTED]

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9. ~~(S//NF)~~ The Government cannot agree to your request. [REDACTED]
[REDACTED] is information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities.
10. [REDACTED]
- ~~(U)~~ With regard to [REDACTED] relied upon by the Government, you have not demonstrated that the requested records "will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3. That said, the Government remains committed to conducting a comprehensive review for all exculpatory evidence [REDACTED] in the factual return, consistent with the CMO.
11. ~~(S//NF)~~ Your client was captured in Djibouti on March 4, 2004. Prior to his transfer to the CIA's custody, your client was in the custody of a foreign government [REDACTED]
[REDACTED] The identity of the foreign government is information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities.
12. ~~(U)~~ The Government cannot agree to your request. The information you have requested is information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities
- ~~(U)~~ Moreover, Respondents do not rely on statements made by your client when he was in CIA custody, and therefore you have not explained "why the requested discovery will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3.
13. ~~(U)~~ The Government cannot agree to your request. The information you have requested is information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities. Moreover, you have not explained "why the requested discovery will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3.
[REDACTED]
14. ~~(U)~~ The Government cannot agree to your request. The information you have requested is information concerning which you either lack an appropriate security clearance or need

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to know for access and which cannot be disclosed to you consistent with national security equities. Moreover, you have not explained "why the requested discovery will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3.

15. ~~(U)~~ The Government cannot agree to your request. The information you have requested is information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities.

~~(U)~~ Moreover, Respondents do not rely on statements made by your client when he was in CIA custody, and therefore you have not explained "why the requested discovery will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3.

16. ~~(U)~~ Respondents will fully comply with their obligations to produce all relevant exculpatory evidence and [REDACTED] information, consistent with CMO Sections I.B.1 and C.2. Indeed, as I am sure you are aware, information about [REDACTED]

~~(U)~~ [REDACTED] the Government cannot agree to your request. You have not explained "why the requested discovery will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3.

17. ~~(U)~~ The Government cannot agree to your request. Respondents do not rely on statements made by your client when he was in CIA custody, and therefore you have not explained "why the requested discovery will enable the petitioner to rebut the factual basis for his detention," as required by CMO Section I.C.3.

~~(U)~~ And without confirming the existence or non-existence of the requested memoranda, any such document would likely contain information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities. Further, any such memoranda would likely be protected from disclosure by the deliberative process and attorney-client privileges, as well as the attorney work product doctrine.

18. ~~(U)~~ The Government has included with this letter a statement responsive to this request.
19. ~~(U)~~ The Government cannot agree to your request. The report you have requested contains information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities. Further, the reports generated by the Guantanamo Bay Review Task

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Force are protected from disclosure, in their entirety, by the deliberative process and/or the law enforcement investigatory privilege.

~~(U)~~ That said, to the extent the Guantanamo Bay Review Task Force memorandum references relevant exculpatory information, the Government will either produce the referenced information or seek an exception from disclosure, consistent with CMO Section I.D.

20.

21.

22.

23.

24.

25. ~~(U)~~ The Government cannot agree to your request. Your request does not adequately "specify the discovery sought," as required by CMO Section I.C.3. For example, your request does not explain what you mean by [REDACTED]

~~(U)~~ The Government, however, will conduct a comprehensive search for exculpatory information [REDACTED] consistent with the CMO.

26. ~~(U)~~ The Government cannot agree to your request. [REDACTED] the information you have requested is information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities. The Government also does not consider the [REDACTED] information to be exculpatory such that it must seek an exception from disclosure under CMO Section I.D.

27. ~~(U)~~ The Government cannot agree to your request. Your request does not adequately "specify the discovery sought," as required by CMO Section I.C.3. For example, your request does not explain what you mean by [REDACTED]

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The Government, however, will conduct a comprehensive search for exculpatory information [REDACTED] consistent with the CMO.

28. ~~(U)~~ The Government cannot agree to your request. Your request does not adequately "specify the discovery sought," as required by CMO Section I.C.3. For example, your request does not explain what you mean by [REDACTED]

The Government, however, will conduct a comprehensive search for exculpatory information [REDACTED] consistent with the CMO.

29. ~~(U)~~ The Government cannot agree to your request. Your letter does not adequately explain how this request "is likely to produce evidence that demonstrates that [your client's] detention is unlawful," as required by CMO Section I.C.3.

~~(U)~~ The Government, however, will conduct a comprehensive search for exculpatory information [REDACTED] consistent with the CMO.

30. ~~(S//NF)~~ The Government cannot agree to your request. [REDACTED] is information concerning which you either lack an appropriate security clearance or need to know for access and which cannot be disclosed to you consistent with national security equities.

~~(U)~~ With regard to the second part of this request, the Government can neither confirm nor deny the accuracy of your description [REDACTED]. Further, your letter does not adequately "specify the discovery sought," as required by CMO Section I.C.3. For example, your request does not explain what you mean by [REDACTED]

~~(U)~~ The Government, however, will fully comply with its exculpatory obligations, consistent with the CMO.

~~(U)~~ We would be happy to discuss your discovery requests and the above responses in person or by telephone to the extent possible. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

/s/ Stephen M. Elliott

Stephen M. Elliott

Email: stephen.elliott@[REDACTED]

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EXHIBIT F

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center for constitutional rights

666 Broadway
212.614.6464

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~~SECRET~~

June 18, 2018

Via Court Security Office

Stephen M. Elliott, Esq.
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, NW
Washington, DC 20530

Re: Petitioner's Supplemental Request for Discovery Related to [REDACTED]
Duran v. Trump, 16-cv-2358 (RBW) (D.D.C.)

Dear Stephen,

Thank you for providing the disclosures on June 6, 2018, which largely concern [REDACTED]
[REDACTED]

After reviewing those materials, I am writing to request that the government specifically produce the following additional documents. These documents are exculpatory and otherwise covered by our prior discovery requests, but I do not want there to be any ambiguity about our request for them:

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

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[REDACTED]

In addition, pursuant to the terms of the protective order entered in this case, I request the government's permission to show and discuss each of the disclosures [REDACTED]

[REDACTED] Please let me know in writing as soon as possible whether that request is approved so that I can make arrangements for him to review the materials at the habeas SCIF.

Finally, I want to reiterate my request for permission to share the first two pages of Factual Return [REDACTED] with Petitioner Duran.

Please let me know if you have any questions.

Very truly yours,



J. Wells Dixon
Senior Staff Attorney

Counsel for Petitioner

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968 Broadway, 7th Floor
New York, New York 10012
212.614.8464
ccrjustice.org

January 11, 2019

Via Court Security Office

Robert J. Prince, Esq.
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L St., NW, Room 11010
Washington, DC 20005

Re: Duran v. Trump, 16-cv-2358 (RBW) (D.D.C.)

Dear Rob:

I write further to our prior discovery requests, including my letter of June 18, 2018, requesting production of exculpatory information [REDACTED]

It has come to my attention that the government has not yet produced to us exculpatory information [REDACTED]

In light of these omissions, I wish to reiterate our request for exculpatory information, including information about the circumstances under which evidence in the factual return was obtained. [REDACTED]

I also wish to reiterate our request for exculpatory evidence [REDACTED]

I do not believe that the government has fully complied with those requests to date.

Finally, I write to request permission to provide [REDACTED]

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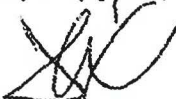
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Please let me know if you have any questions concerning these requests.

Very truly yours,

A handwritten signature in black ink, appearing to be 'J. Wells Dixon', written over a horizontal line.

J. Wells Dixon

Counsel for Petitioner

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____	x
GULED HASSAN DURAN (ISN 10023),	:
	:
Petitioner,	:
	:
v.	:
	:
DONALD J. TRUMP, <i>et al.</i> ,	:
	:
Respondents.	:
_____	x

Case No. 16-cv-2358 (RBW)

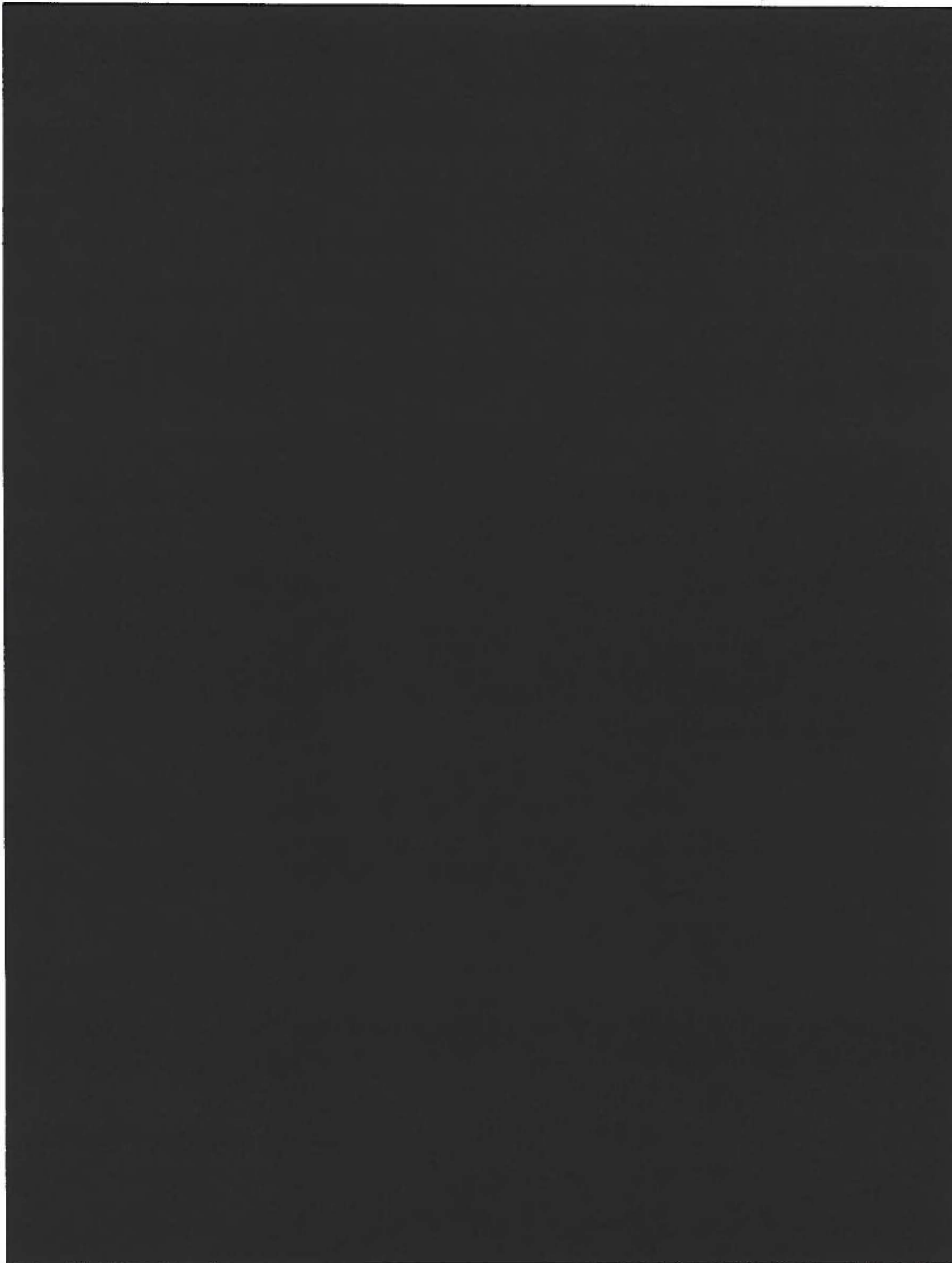


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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____	X	
	:	
GULED HASSAN DURAN (ISN 10023),	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 16-cv-2358 (RBW)
	:	
DONALD J. TRUMP, <i>et al.</i> ,	:	
	:	
Respondents.	:	
_____	X	



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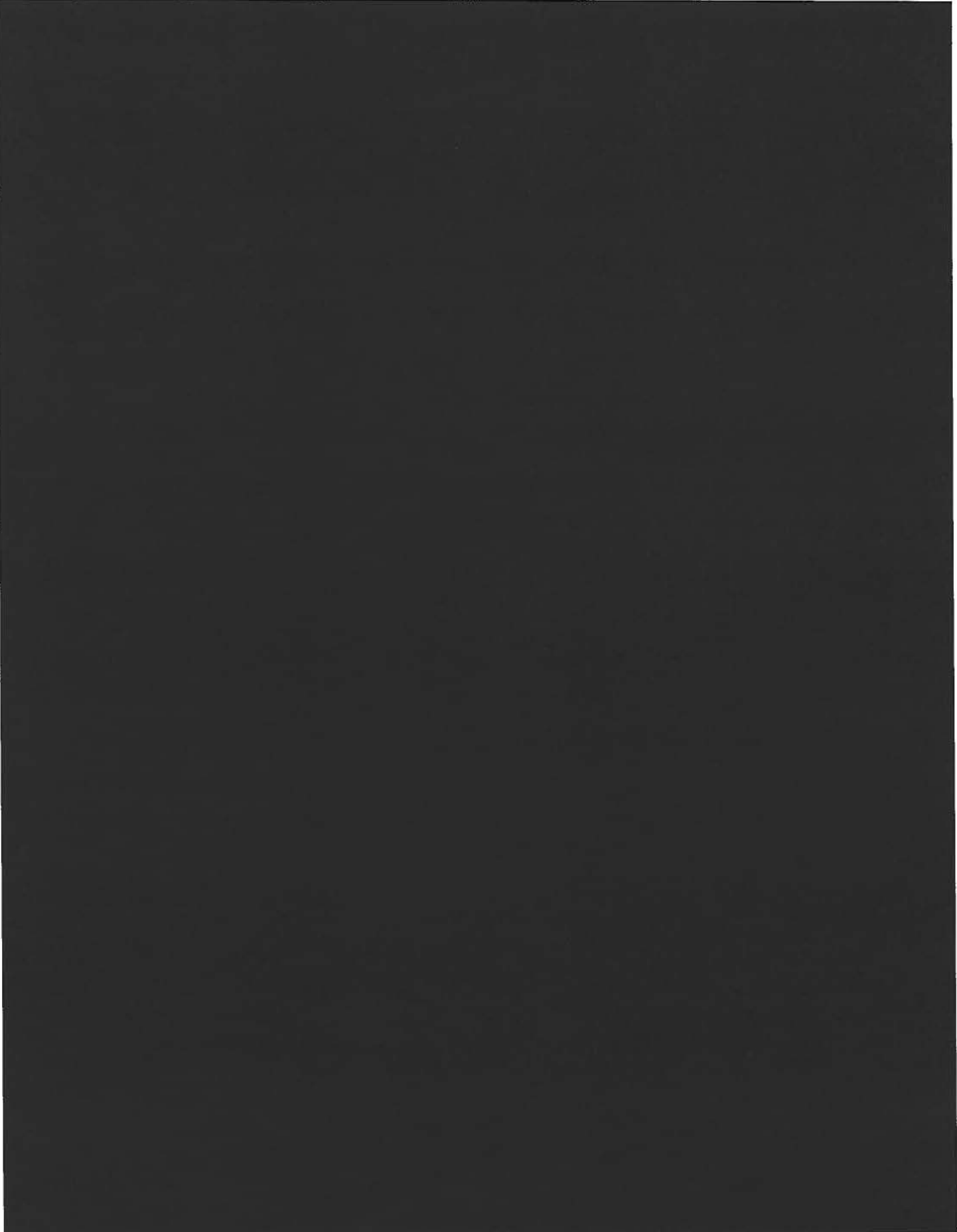
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