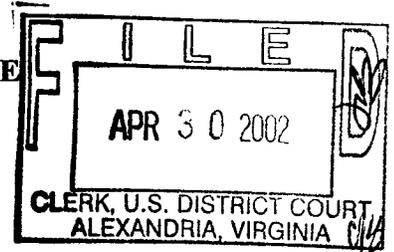


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



UNITED STATES OF AMERICA)
)
 v.)
)
 JOHN PHILLIP WALKER LINDH)

Criminal No. 02-37-A

ORDER

The matter is before the Court on the Government's April 19, 2002 Motion for a Protective Order Related Primarily to Defense Discovery Request Number Four.

In its motion, the government requests the entry of an order protecting from disclosure to the defense various classified documents filed by the government under seal, for an *ex parte* and *in camera* review. Specifically, the government argues that the classified documents filed as Attachments 2 through 5 to its April 19, 2002 motion,¹ as well as a Supplemental Classified Attachment filed on April 22, 2002 and Two Additional Classified Documents filed on April 23, 2002, do not contain any material required to be disclosed to the defense under either Rule 16, Fed. R. Crim. P. or *Brady v. Maryland*, 373 U.S. 83 (1963).

Based on an independent, *ex parte* and *in camera* review of the classified documents filed as Attachment 2 to the government's April 19, 2002 motion, as well as the Two Additional Classified Documents filed on April 23, 2002,² it is clear that none of these documents contain any

¹ The government has disclosed to the defense the classified documents filed as Attachments 1A and 1B to the April 19, 2002 motion.

² Attachments 3 through 5 to the April 19, 2002 motion and the Supplemental Classified Attachment filed on April 22, 2002 remain under review and an appropriate order will issue promptly upon completion of the Court's *ex parte* and *in camera* review of such documents.

information that can reasonably be construed as either exculpatory under *Brady* or discoverable under Rule 16, Fed. R. Crim. P. Moreover, the classified documents filed as Attachment 2 to the April 19, 2002 motion constitute protected government work-product materials, pursuant to Rule 16(a)(2), Fed. R. Crim. P.

Accordingly, for these reasons, and for good cause shown, it is hereby **ORDERED** that the government's Motion for a Protective Order Related Primarily to Defense Discovery Request Number Four is **GRANTED** as to the classified documents filed as Attachment 2 to the April 19, 2002 motion and the Two Additional Classified Documents filed on April 23, 2002.

Therefore, it is further **ORDERED** that the government is not required to disclose to the defense either (i) the classified documents filed as Attachment 2 to the April 19, 2002 motion or (ii) the Two Additional Classified Documents filed on April 23, 2002.

It is further **ORDERED** that the subject classified documents be (i) placed in separate envelopes, one marked as "Attachment 2 to the Government's Motion for a Protective Order Related Primarily to Defense Discovery Request Number Four," and the other marked as "Two Additional Classified Documents in support of the Government's Motion for a Protective Order Related Primarily to Defense Discovery Request Number Four," (ii) maintained as classified documents in accordance with the procedures set forth in the Classified Information Procedures Act, (CIPA), Title 18 U.S.C., Appendix 3, and in the Protective Order entered in this case on February 27, 2002, *see United States v. Lindh*, Criminal No. 02-37-A (E.D. Va. Feb. 27, 2002) (Protective Order) and (ii) maintained *ex parte* and under seal for appellate review, if necessary.

The Clerk is directed to send a copy of this Order to all counsel of record.

/S/

Alexandria, VA
April 30, 2002

T.S. Ellis, III
United States District Judge