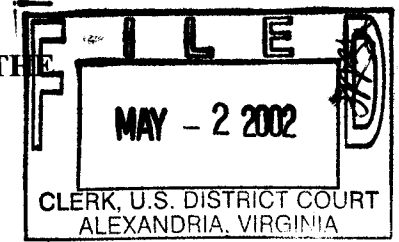


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



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 23, 2002 memorandum regarding defense access to potential witnesses in Department of Defense (DOD) custody and defendant's April 30, 2002 response thereto.

In its memorandum, the government, concerned with national security issues, suggests that the defense be permitted pre-trial access to detainees currently housed at Guantanamo Bay only through the use of written questions submitted by the defense to the detainees, with the detainees' written answers to be reviewed and furnished to the defense by an independent DOD review team. Defense counsel, in response, argue that only face-to-face interviews in Guantanamo Bay will adequately protect defendant's rights. In this regard, counsel contends that written questions and answers are insufficient in the circumstances, as this procedure would not provide defense counsel an opportunity (i) to clarify the detainees' answers or ask follow-up questions, (ii) to discover unanticipated exculpatory testimony or (iii) to judge the demeanor and credibility of the detainees.

Omitted from the parties' treatments of this issue is a discussion of telephone or video conference interviews of detainees as alternatives to face-to-face interviews or written interrogatories.

Accordingly, for good cause shown, it is hereby **ORDERED** that a hearing is **SCHEDULED**

in this matter for 4:00 p.m., Monday, May 6, 2002, at which time the Court will consider and resolve the parties' dispute concerning interview access to Guantanamo Bay detainees.¹

Prior to the May 6 hearing, the parties are **DIRECTED** to confer, in an attempt to reach an agreement, regarding the procedures to be followed in connection with defense counsel's pre-trial interviews of Guantanamo Bay detainees. In this regard, defense counsel is **DIRECTED** orally to advise the government as to the specific detainees they seek to interview, together with the estimated time required for each interview. And, in furtherance of the conference, the parties should discuss fully the issues of technical feasibility, practicality, language interpretation, confidentiality and national security relating to the use of telephone or video conferencing as a means of allowing defense counsel to interview at least some detainees.

The parties are further **DIRECTED** to advise the Court promptly in the event they are able to reach an agreement on these issues.

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

/S/

Alexandria, VA
May 2, 2002

T.S. Ellis, III
United States District Judge

¹ It is important to note that the May 6 hearing will concern only procedures relating to defendant's pre-trial interviews of the detainees. Procedures to be used in the event any detainees are called to testify at trial or other hearings will be addressed and resolved by the Court, if and when it becomes necessary to do so.