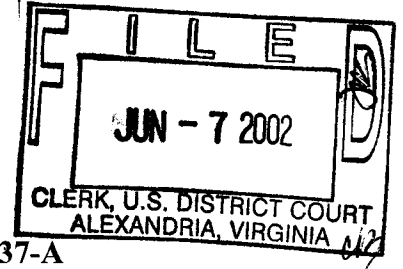


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



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 Second *Ex Parte* Motion for a Protective Order Regarding Non-Exculpatory Reports of Detainee Interviews, filed pursuant to Rule 16(d)(1), Fed. R. Crim. P.

In its *ex parte* motion, the government requests the entry of an order protecting from disclosure to the defense eleven reports of interviews taken of detainees who are currently housed at Guantanamo Bay, Cuba, which reports are attached to the government's *ex parte* motion. These reports, the government argues, 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). Nonetheless, to ensure full compliance with its obligations under *Brady* and this Court's April 1, 2002 discovery order, the government submitted the eleven reports under seal, for an *ex parte* and *in camera* review by the Court. *See United States v. Lindh*, Criminal No. 02-37-A (E.D. Va. Apr. 1, 2002) (Order).

Based on an *ex parte, in camera* review of the eleven reports submitted by the government, it is clear that virtually all of the information contained in the reports falls outside the scope of *Brady*. Yet, at the present time, it appears that a small amount of information contained in the

reports may constitute *Brady* material required to be disclosed to the defense.¹

Accordingly, for good cause, it is hereby **ORDERED** that the government file by 5:00 p.m., Thursday, June 13, 2002, an *ex parte* and under seal pleading advising the Court whether the information designated in the margin should be required to be disclosed to the defense pursuant to *Brady* and, if not, the reasons therefor.

The matter will thereafter be decided on the papers, without oral argument.

It is further **ORDERED** that the Government's Second *Ex Parte* Motion for a Protective Order Regarding Non-Exculpatory Reports of Detainee Interviews, together with the attached reports, be maintained *ex parte* and under seal for appellate review, if necessary.

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

/S/

Alexandria, VA
June 6, 2002

T.S. Ellis, III
United States District Judge

¹ The specific information in question is as follows: (1) report #3, page 3, first paragraph, lines 1 through 4 and fourth paragraph, lines 1 through 5; (2) report #4, page 1, third paragraph, lines 1 through 8 and fourth paragraph, lines 1 through 2; (3) report #5, page 5, seventh paragraph; and (4) report #5, page 6, first, second and third paragraphs.