

DID BUSH LIE TO VAUGHN WALKER?

Yesterday, after the 9th Circuit refused the Obama/Dead-End appeal in al-Haramain case, the Obama Administration filed two documents to try to minimize the damage of Judge Walker's presumably imminent review of whether or not George Bush broke the law when it wire-tapped al-Haramain's lawyers. I discussed this filing, which warned Walker that they intend to fight his efforts to make information available so al-Haramain's lawyers can litigate the suit, here.

Sometime after the Obama Administration posted that filing yesterday, they posted this one, which mostly fulfills an order Judge Walker gave them on January 5 to determine whether any of the materials entered in the case thus far could be declassified.

The Government hereby reports, as set forth in the attached public declarations, that the classified information at issue in this case remains classified and is not subject to declassification under Executive Order ("E.O.") 12,958, 60 Fed. Reg. 19,825 (Apr. 17, 1995), as amended by E. O. 13,292, 68 Fed. Reg. 15,315 (Mar. 25, 2003).

Not to be picky, but they missed the 45-day deadline Walker gave them by 8 days.

That news from the filing—that they maintain this information is still classified—is not surprising.

But this is:

The Government's ex parte, in camera classified submissions also address an inaccuracy contained in a prior submission by the Government, the details of which involve classified

information that cannot be set forth on the public record.

Given that Obama has not yet submitted classified information in this case, this almost certainly means that the Bush Administration submitted "inaccurate" information in one of its past representations to Walker.

Or, to put it another way, now that Walker is going to look at the wiretap log from al-Haramain and assess whether or not the wiretapping was legal, the Obama Administration is changing the record in some meaningful way.

Obviously, we don't get to know what Bush either lied or hid, but here are three possibilities:

1. Bush withheld something (to use WO's speculation, perhaps something like proof that they not only wiretapped al-Haramain's lawyers' conversations with al-Haramain, but that they also wiretapped the lawyers' conversations with others?) and it is now being advanced as an "inaccuracy"
2. Obama is introducing something new (perhaps some evidence that might go further to support an otherwise nonexistent probable cause determination) in an effort to limit the damage of the impending Walker review
3. Bush had not yet admitted one of his rationales for legality before (perhaps,

for example, he was hiding the OLC opinion that eviscerated the 4th Amendment out of embarrassment?) and they're adding it now to minimize the possibility that Walker will rule the wiretapping illegal

All of these utterly speculative possibilities, of course—as well as some more I can think of—are ones that would mean Obama was trying to cover-up Bush's earlier efforts to pull a fast one over on Vaughn Walker. Sure, maybe this "inaccuracy" was something totally innocuous. Just as likely, though, Bush was lying to the Judge.