

RECORD OF TRIAL

COVER SHEET

**IN THE
MILITARY COMMISSION
CASE OF**

UNITED STATES

V.

GHASSAN ABDULLAH AL SHARBI

ALSO KNOWN AS:

**ABDULLAH AL MUSLIM
ABU MUSLIM**

No. 050005

VOLUME III OF IV TOTAL VOLUMES

**1ST VOLUME OF TRANSCRIPT: R. 1-58
APRIL 27, 2006 SESSION
(REDACTED VERSION)**

United States v. Ghassan Abdullah al Sharbi, No. 050005

INDEX OF VOLUMES

A more detailed index for each volume is included at the front of the particular volume concerned. An electronic copy of the redacted version of this record of trial is available at <http://www.defenselink.mil/news/commissions.html>.

Some volumes have not been numbered on the covers. The numerical order for the volumes of the record of trial, as listed below, as well as the total number of volumes will change as litigation progresses and additional documents are added.

After trial is completed, the Presiding Officer will authenticate the final session transcript and exhibits, and the Appointing Authority will certify the records as administratively complete. The volumes of the record of trial will receive their final numbering just prior to the Appointing Authority's administrative certification.

Transcript and Review Exhibits are part of the record of trial, and are considered during appellate review. Volumes I-VI, however, are allied papers and as such are not part of the record of trial. Allied papers provide references, and show the administrative and historical processing of a case. Allied papers are not usually considered during appellate review. See generally *United States v. Gonzalez*, 60 M.J. 572, 574-575 (Army Ct. Crim. App. 2004) and *United States v. Castleman*, 10 M.J. 750, 751 (AFCMR 1981) and cases cited therein discussing when allied papers may be considered during the military justice appellate process, which is governed by 10 U.S.C. § 866). For more information about allied papers in the military justice process, see Clerk of Military Commission administrative materials in Volume III.

VOLUME

NUMBER

SUBSTANCE OF CONTENTS

ALLIED PAPERS Not part of "record of trial"

- | | |
|-----------------|---|
| I ¹ | Military Commission Primary References (Congressional Authorizations for Use of Force; Detainee Treatment Act; UCMJ articles; President's Military Order; Military Commission Orders; DoD Directive; Military Commission Instructions; Appointing Authority Regulations; Presiding Officer Memoranda—includes DoD rescinded publications) |
| II ¹ | Supreme Court Decisions: <i>Rasul v. Bush</i> , 542 U.S. 466 (2004); <i>Johnson v. Eisentrager</i> , 339 U.S. 763 (1950); <i>In re Yamashita</i> , 327 U.S. 1 (1946); <i>Ex Parte Quirin</i> , 317 U.S. 1 (1942); <i>Ex Parte Milligan</i> , 71 U.S. 2 (1866) |

¹ Interim volume numbers. Final numbers to be added when trial is completed.

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Record of Trial

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Index of Transcript

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SESSIONS:

27 April 2006

| <u>DESCRIPTION</u> | <u>PAGE #</u> |
|---|---------------|
| List of persons present at hearing | <u>1</u> |
| Presiding Officer explains that the Accused has a right to be present at all open sessions, but can be excluded if he is disruptive | <u>1</u> |
| Appointing Orders and amended Appointing orders (<u>REs 5 and 30</u>) presented to the Commission | <u>2</u> |
| Approval of Charges and Charges (<u>REs 2, 3 and 4</u>) in English and Arabic presented to the Commission | <u>3</u> |
| Detailed personnel were present and sworn | <u>3-4</u> |
| The Accused speaks and understands English and does not require a Translator. He has spoken English more than 15 years. The Presiding Officer states a translator is not required. | <u>4-5</u> |
| The Prosecutor describes the qualifications of the Prosecution team, and the Chief Prosecutor's detailing letter is presented to the Commission (<u>RE 6</u>) | <u>5-6</u> |
| President's Reason To Believe (RTB) determination is presented to the Commission (<u>RE 1</u>) | <u>6</u> |
| The Detailed Defense Counsel describes his qualifications and the Chief Defense Counsel's detailing letter is presented to the Commission | <u>6-7</u> |
| The Presiding Officer explains to the Accused that he has the option of wearing non-confinement type clothing at his hearing. The Accused states he prefers to wear the orange clothing that he has been wearing the last four years. | <u>7-8</u> |
| The Presiding Officer explained the Accused's rights to counsel | <u>9-10</u> |

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The Accused responds that he understands his rights, has no questions, but does not want any counsel and wants to represent himself. [10-11](#)

The Accused has a bachelor's degree from Embry Riddle Aeronautical University. He has not studied law, and has not represented himself in a criminal proceeding. He has read the President's Military Order. But he has not read Military Commission Order No. 1, Military Commission Instructions, Appointing Authority Regulations, or Presiding Officer Memoranda. The Accused said that although the Presiding Officer believed these documents controlled the proceedings, the Accused said, "what I say controls it." (R. 14). [11-14](#)

The Accused said that he was "proud of what I did." (R. 15) The Accused wanted to say what he did (R. 16). The Accused urged his Detailed Military Counsel to refuse to participate in the Proceedings (R. 18-19). The Accused said, "I came here to tell you that I did what I did and I'm willing to pay the price no matter how much you sentence me even if I spend hundreds of years in jail. In fact, it's going to be an honor. . ." (R. 20). [15-22](#)

The Presiding Officer described ways that Detailed Defense Counsel could assist the Accused, and the risks of not using counsel (R. 19-26). The Accused maintained that he did not desire counsel, and wanted to represent himself (R. 27). [15-27](#)

After a recess and talking to his Defense Counsel, the Accused stated that he did not want counsel, and wanted to represent himself. [28-30](#)

The Accused stated he was unfamiliar with Commission rules. The Accused stated, "I just am going to say what I did and you guys make your decision." (R. 32). [29-32](#)

The Presiding Officer found that the Accused was a fluent English speaker who understands "fairly complex speech." The Accused has a Bachelor's Degree from Embry Riddle University. The Accused was however unfamiliar with Commission rules and procedures, and was not qualified to represent himself. The Presiding Officer said he may supplement these findings before

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| | |
|---|------------------------------|
| the final transcript of the proceedings is completed. | <u>32-33</u> |
| The Presiding Officer directed Lieutenant Kuebler to represent the Accused (R. 34). | |
| The Presiding Officer's biography was presented to the Commission and the Presiding Officer's written offer to provide additional biographical information (<u>REs 13 and 22</u>). | <u>34</u> |
| The Prosecution had no voir dire questions for the Presiding Officer | <u>35</u> |
| Detailed Defense Counsel presented a memorandum from an attorney in California, Mr. Steele, where Lieutenant (LT) Kuebler is licensed, indicating it was unethical for LT Kuebler to represent the Accused against the wishes of the Accused (R. 36). LT Kuebler said he sent a request to the Navy Judge Advocate General two days ago seeking guidance on the ethics of representing an Accused against their wishes. | <u>36-39</u> |
| Detailed Defense Counsel argued that the Accused should be able to represent himself, and asked for time to brief the issue. | <u>39-42</u> |
| Detailed Defense Counsel described his difficulty meeting with the Accused, and his attempts to overcome the Accused's objections to representation by counsel. | <u>44-47</u> |
| The Presiding Officer discussed scheduling (R. 53). The Presiding Officer stated that the motion about representation, voir dire, reading of charges and pleas would be discussed at the May session. | <u>53-54</u> |
| The Presiding Officer discussed protective orders (<u>REs 14 - 16</u>). | <u>54-55</u> |
| Current Presiding Officer Memoranda are listed at (<u>RE 31</u>). | <u>55</u> |
| The current Filings Inventory is (<u>RE 32</u>). | <u>56</u> |
| The hearing recessed on April 27, 2006. | <u>57</u> |
| Authentication page for hearing pages 1-58. | <u>58</u> |

1 The Commissions Hearing was called to order at 0901, 27
2 April 2006.

3

4 [Throughout this transcript, Captain Daniel O'Toole, U.S.
5 Navy, will be referred to as the Presiding Officer or PO.
6 Captain [REDACTED] U.S. Air Force, will be referred to
7 as the Prosecutor or PROS. Lieutenant [REDACTED]
8 Jr., U.S. Navy Reserve, will be referred to as Assistant
9 Prosecutor or APROS. Lieutenant William Kuebler, U.S.
10 Navy, will be referred to as Defense Counsel or DC.]

11

12 **PRESIDING OFFICER:** The Military Commission is called to
13 order.

14

15 Mr. al Sharbi, you have the right to be present
16 at all open sessions of this Commission. If you
17 are disruptive, you will give up the right to be
18 present. There are certain choices you have a
19 right to make and if you are disruptive and I
20 have you removed from this hearing room, you will
21 not be present to make those decisions. If you
22 are removed, you will not be present to

1 participate in your own defense during the open sessions.

2 Do you understand this?

3

4 **ACC:** I understand what you are saying.

5

6 **Presiding Officer:** Thank you. Would the prosecutor state
7 the jurisdictional basis for this Military
8 Commission?

9

10 **APROS:** Yes, sir. This Military Commission is appointed
11 by Appointing Order Number 05-0006, dated 12
12 December 2005, as amended by Appointing Order
13 Number 06-0004, dated 1 February 2006 and
14 Appointing Order Number 06-0010, dated 27 March
15 2006, copies of which have been furnished to the
16 presiding officer and to the defense.

17

18 Appointing Order 05-0008 has been marked as
19 Review Exhibit 5, and Appointing Orders 06-0006
20 and 06-0010 have been marked as part of Review
21 Exhibit 30 and attached to the record.

22

1 The Charges have been marked as Review Exhibit 2
2 and have been properly approved by the Appointing
3 Authority and referred to this Commission for
4 trial.

5
6 The approval of the charges and their referral to
7 this Commission have been marked as Review
8 Exhibits 3 and 4, respectively. The prosecution
9 caused a copy of the charge in English and
10 Arabic, the accused's native language to be
11 served on the accused on 30 November '05.

12
13 The prosecution is ready to proceed in the
14 Commission trial of the United States versus
15 Ghassan al Sharbi.

16
17 The accused, the Presiding Officer, and all
18 detailed counsel are present.

19
20 A court reporter has been detailed reporter for
21 this Commission and has been previously sworn.

22

1 Security personnel have been detailed for this
2 Commission and have been previously sworn.

3

4 **Presiding Officer:** Thank you. I have been designated as
5 the Presiding Officer of this Military Commission
6 by the Appointing Authority and I have previously
7 been sworn.

8

9 Before continuing with other preliminary matters,
10 I would like to inquire into the accused's need
11 for a interpreter/translator. Mr. al Sharbi, are
12 you able to speak and understand English?

13

14 **ACC:** Yes.

15

16 **Presiding Officer:** Do you need the services of a
17 translator in order to----

18

19 **ACC:** No.

20

21 **Presiding Officer:** ----understand or follow these
22 proceedings?

23

1 **ACC:** No.

2

3 **Presiding Officer:** How long have you spoken English?

4

5 **ACC:** Over 15 years.

6

7 **Presiding Officer:** Very well, then I find there is no need

8 for a defense translator. If at some time during

9 the proceedings, you find that you are having

10 difficulty following the proceedings, you are

11 invited to bring that to my attention and we will

12 provide a translator for you. Do you understand?

13

14 **ACC:** Absolutely.

15

16 **Presiding Officer:** Thank you. Would the prosecutor please

17 state by whom you have been detailed and your

18 qualifications?

19

20 **APROS:** Sir, all members of the prosecution have been

21 detailed to this Military Commission by the Chief

22 Prosecutor. All members of the prosecution are

23 qualified under Military Commission Order Number

1 1, paragraph 4 Bravo and we have been previously sworn. No
2 member of the prosecution has acted in any
3 manner, which might tend to disqualify us in this
4 proceeding. The detailing document has been
5 marked as Review Exhibit 6.

6
7 The prosecution also has sitting at the
8 prosecution table an assistant who will assist
9 the prosecution but will not be representing the
10 government.

11
12 At this point, sir, I would like to mention that
13 the Presidential Determination that that accused
14 may be subject to trial by Military Commission
15 has been marked as Review Exhibit 1 and has been
16 previously shown to the defense.

17
18 **Presiding Officer:** Thank you. Would the detailed defense
19 counsel please state by whom you have been
20 detailed and your legal qualifications.

21
22 **DC:** Sir, I have been detailed to this Military
23 Commission by the Chief Defense Counsel. I am

1 qualified under Military Commission Order Number 1,
2 paragraph 4.C. I have previously been sworn. I
3 have not acted in any manner, which might tend to
4 disqualify me in this proceeding. My detailing
5 document has been previously marked as a Review
6 Exhibit.

7

8 **Presiding Officer:** Thank you. Before proceeding, Mr. al
9 Sharbi, I note that you are wearing the camp
10 clothing. Pursuant to the rules of these
11 Commissions, which are referred to as, "Presiding
12 Officer Memoranda," it is required that you be
13 provided clothing of a suitable nature for these
14 proceedings so that once the Commission Panel
15 Members arrive, you are not in any way prejudiced
16 by your appearance. Has attire been provided to
17 you, other than what you are wearing?

18

19 **ACC:** Uh-huh, absolutely, more than once.

20

21 **Presiding Officer:** Is it your free choice this morning not
22 to wear that other attire?

23

1 **ACC:** Absolutely.

2

3 **Presiding Officer:** So you wish to appear this morning as
4 you are?

5

6 **ACC:** I have worn that suit for more than 4 years, in
7 fact, I miss my orange suit, and I just want to
8 wear the same suit that I have been wearing for
9 more than 4 years.

10

11 **Presiding Officer:** Very well, but I want you to know that
12 you have a right to have that clothing, should
13 you choose to wear it, and you certainly are not
14 prejudiced in my view by your appearance this
15 morning, however, I will advise you that you may
16 wish to consider your appearance and discuss that
17 with your counsel prior to the beginning of the
18 trial on the merits before panel members. Do you
19 understand?

20

21 **ACC:** I understand, but I am not considering it, to be
22 honest with you.

23

1 **Presiding Officer:** Very well, that is up to you. Mr. al
2 Sharbi, pursuant to Military Commission Order
3 Number 1, Lieutenant Kuebler, who is a military
4 lawyer, has been assigned to represent you as
5 your detailed defense counsel. Detailed defense
6 counsel are provided to you at no cost. You may
7 request a different military lawyer to represent
8 you, if you like. If the military lawyer is
9 reasonably available, then that lawyer would be
10 appointed to represent you, also free of charge.

11

12 In addition, you may be represented by qualified
13 civilian counsel, however, civilian counsel would
14 have to be qualified, he would represent you at
15 no cost to the United States. A civilian lawyer
16 whom you wish to represent you must be a U.S.
17 citizen, must be admitted to the practice of law
18 in a state, district, territory, or possession of
19 the United States or a federal court; may not
20 have been sanctioned or disciplined for any
21 relevant misconduct; must be eligible for a
22 security clearance with a level of secret; must
23 agree in writing to comply with the orders,

1 rules, and regulations of these Military Commissions.

2

3 If a civilian lawyer represents you, your
4 detailed defense counsel will also continue to
5 represent you, and your detailed defense counsel
6 will be present during the presentation of all of
7 the evidence.

8

9 Do you understand all of your rights to counsel?

10

11 **ACC:** I understand.

12

13 **Presiding Officer:** Do you have any questions about your
14 rights to counsel?

15

16 **ACC:** Nope.

17

18 **Presiding Officer:** Do you wish to be represented by
19 Lieutenant Kuebler?

20

21 **ACC:** No.

22

1 **Presiding Officer:** Do you want to be represented by
2 another military counsel?

3

4 **ACC:** No.

5

6 **Presiding Officer:** Do you want to be represented by a
7 civilian counsel?

8

9 **ACC:** No.

10

11 **Presiding Officer:** By whom do you desire to be
12 represented?

13

14 **ACC:** I would like to represent myself.

15

16 **Presiding Officer:** Tell me what level of education you
17 have achieved?

18

19 **ACC:** I have a bachelor's degree.

20

21 **Presiding Officer:** And from what institution?

22

23 **ACC:** Embry Riddle Aeronautical University.

1

2 **Presiding Officer:** Have you ever studied law?

3

4 **ACC:** No.

5

6 **Presiding Officer:** Have you ever represented yourself or
7 anyone else in any one else in any criminal
8 proceeding?

9

10 **ACC:** No.

11

12 **Presiding Officer:** Are you familiar with the President's
13 Military Order of 13 November 2003?

14

15 **ACC:** What are you referring to exactly?

16

17 **Presiding Officer:** I am referring to the President's
18 Military Order that is dated 13 November 2003,
19 which establishes these Military Commissions.

20

21 **APROS:** Sir, I believe that is dated 2001.

22

23 **Presiding Officer:** I am sorry, 2001.

1

2 **ACC:** Yeah, I have heard about that.

3

4 **Presiding Officer:** Have you read it?

5

6 **ACC:** I read it.

7

8 **Presiding Officer:** Are you familiar with the Military
9 Commission Order Number 1?

10

11 **ACC:** Which is?

12

13 **Presiding Officer:** Well it is Military Commission Order
14 Number 1.

15

16 **ACC:** I don't know what you are referring to.

17

18 **Presiding Officer:** Are you familiar with the Military
19 Commission Instructions?

20

21 **ACC:** No.

22

1 **Presiding Officer:** Are you familiar with the Appointing
2 Authority Regulations?

3

4 **ACC:** No.

5

6 **Presiding Officer:** Are you familiar with the Presiding
7 Officer's Memoranda?

8

9 **ACC:** No.

10

11 **Presiding Officer:** Do you realize that all of these
12 documents, the President's Military Order,
13 Military Commission Order Number 1, the Military
14 Commission Instructions, the Appointing Authority
15 Regulations, and the Presiding Officer Memorandum
16 will control the progress and the procedures in
17 this case?

18

19 **ACC:** Well that's in your perspective. I believe that
20 what I say controls it, and I'm going to make
21 this easy and short for you guys. I'm not going-
22 -I'm saying it. I fought against the United
23 States, I took arms. I'm going to make it short

1 so you don't have to worry about other things, and whether
2 it's Mr. Kuebler or someone else, I mean, I told
3 him that last time we met. To me it's the same
4 circus, different clown.

5

6 **Presiding Officer:** Do you understand that as these
7 proceedings go forward that the evidence that's
8 going to be introduced against you and evidence
9 that you might wish to present would be regulated
10 by the rules that I've just referred to?

11

12 **ACC:** Again, that's in your perspective.

13

14 **Presiding Officer:** Are you willing to abide by these
15 rules?

16

17 **ACC:** I'm not going to be violent or cause troubles or
18 cause commotions. That's what I'm telling you.
19 I'm not going to interrupt you. As I said, I'm
20 going to make it short and easy for you guys.
21 I'm going to say what I did without--without
22 denying anything. I'm proud of what I did and
23 there isn't any reason of fighting what I did.

1

2 **Presiding Officer:** Well, I appreciate your courtesy and
3 your cooperation to the extent that you're
4 cooperating, but I want to be sure that you
5 understand what all your rights are so that you
6 may take full advantage of the rights in
7 defending yourself and one of those that you've
8 requested is to represent yourself. In order to
9 represent yourself, I need to be sure that you
10 will abide by the rules that govern the conduct
11 of these proceedings. And that includes more
12 than simply being pleasant and being present.
13 They would include the methods by which evidence
14 is introduced.

15

16 **ACC:** And, again, that's your job. To be honest with
17 you, I have nothing to add more than I'm going to
18 say what I did.

19

20 **Presiding Officer:** Do you understand that you would be
21 better off with a trained lawyer who would be
22 familiar with the law and the rules that are
23 applicable to these Military Commission?

1

2 **ACC:** Not--not with the fact I see him wearing that
3 military suit. I cannot trust him to be honest
4 with you. I told him that, and he pointed at the
5 rank and said, "I'm wearing that suit. I have to
6 follow orders." Himself he told me last time and
7 the only reason I met him because General Hood
8 asked me to meet him--that gentlemen. He says
9 people think that we are coercing you mentally
10 and physically, so just meet him once and tell
11 him that I don't want you at the minimum. So I
12 met him, I told him, "I don't want to deal with
13 you whether it's you or someone else." So and
14 he--basically he said that the whole process is
15 illegitimate and he says he doesn't believe in it
16 and so on. I told him if you believe that it's
17 illegitimate I would have respect if you say okay
18 I'm not participating in the whole process. It
19 doesn't make sense when you say it's illegitimate
20 and I'm going to participate in that process.
21
22 So I'm not saying this I want to borrow his
23 voice. I want to say it's illegitimate. No, to

1 me whether it's illegitimate or legitimate is not of
2 importance to me. There are so many illegitimate
3 things that your government have conducting and
4 that's the last of the chain. The last of the
5 chain you're bombing Iraq, you're bombing
6 Afghanistan is illegitimate. Your being in our
7 Muslim land is illegitimate. So it's not a
8 matter of legitimacy or illegitimacy to me.

9
10 **Presiding Officer:** Well, do you understand that part of
11 the procedures of these Military Commissions
12 would allow your attorney to argue the
13 jurisdiction and the lawful basis of these
14 Commissions?

15
16 **ACC:** As I said, I would have maximum respect for him
17 if he stay out of the whole process. And just as
18 a person to a person. I mean he told me that, "I
19 don't believe in the whole process. It's
20 illegitimate and it's, again, I call it" he says,
21 "it's a black eye." And he kept saying these
22 things and I told him if you--if you have the
23 courage then just say I'm not going to

1 participate in the whole process. I don't--but then I told
2 him don't you want to be the fourth king. I was
3 referring to the movie The Three Kings when they
4 refused the military order they said no, we'
5 don't believe in that. So I told him, "If you
6 believe that's wrong, so just say no to the
7 military order. No matter what--how much it
8 costs you." I mean for the person that they
9 believe in I just spent now 4 years and God only
10 knows how long I'm going to spend in jail.

11

12 **Presiding Officer:** Well, do you realize that representing
13 yourself, as you've requested, is more than
14 simply telling your story? It involves the need
15 to present matters according to the rules of
16 procedure before the Military Commission. Do you
17 understand that?

18

19 **ACC:** I understand what you're saying, but as I told---
20 -

21

22 **Presiding Officer:** Thank you. Do you understand that a
23 lawyer who has been trained and has experience in

1 trial procedures would be needed in order to present
2 whatever you choose to present in the most
3 effective way?

4
5 **ACC:** Let me clarify one point, I do not--to be honest
6 with you, I did not come here to defend myself.
7 I say no, that's not the case. That's not the
8 case. That's why that's one of the factors that
9 make me I don't need that man over here. I came
10 here to tell you that I did what I did and I'm
11 willing to pay the price no matter how much you
12 sentence me even if I spend hundreds of years in
13 jail. In fact, it's going to be an honor--a
14 medal of honor to me. That's--that's the whole
15 issue. That's one of the factors that make me
16 refuse you.

17
18 **Presiding Officer:** Even in cases in which an accused or
19 defendant wishes to plead guilty, it is
20 beneficial to have someone trained to understand
21 the procedures and how best to present and
22 represent the client's interests. Do you
23 understand that?

1

2 **ACC:** I understand, but I don't like the term "guilty."
3 Guilt, guilt, no. I'm not--I don't like that
4 term.

5

6 **Presiding Officer:** Well----

7

8 **ACC:** I don't like the word confession, he admitted to
9 it. No. I proudly did what I did, so----

10

11 **Presiding Officer:** Well, even if I accept your phraseology
12 and you wish to make any statement at all
13 regarding the charges that are preferred and
14 referred against you, it is beneficial to have an
15 attorney help you do that in the most effective
16 way within in the rules of procedure of these
17 Commissions. Do you understand that?

18

19 **ACC:** Again, that's in your perspective.

20

21 **Presiding Officer:** Yes, but I want to be sure that you
22 understand that that is a right that you have.

23

1 **ACC:** No. I don't think that it's beneficial. No, not
2 at all. I don't think that it's beneficial.

3

4 **Presiding Officer:** But do you understand that that is your
5 right?

6

7 **ACC:** As I told you, yes, I know that.

8

9 **Presiding Officer:** And you understand that without the
10 assistance of trained counsel whether that's this
11 military counsel, another military counsel, or a
12 qualified civilian counsel that without that
13 counsel and representation, you might do
14 something, even inadvertently that would be
15 adverse to your interests?

16

17 **ACC:** No, problem. As I just told you, I'm going to be
18 honest as much as I can.

19

20 **Presiding Officer:** But do you understand the risk that
21 that entails?

22

1 **ACC:** Okay, I'll go with your terms, "risk". I
2 understand the "risk".

3

4 **Presiding Officer:** Very well. Do you understand that if
5 you were to be permitted to represent yourself
6 that you would not be allowed to complain to a
7 higher authority on appeal that you were not well
8 represented?

9

10 **ACC:** I understand that.

11

12 **Presiding Officer:** And you realize that your case might be
13 represented less effectively before this panel of
14 members because you would be both an advocate for
15 yourself as well as potentially a witness and the
16 accused all at the same time?

17

18 **ACC:** So you asking me do you understand that?

19

20 **Presiding Officer:** Yes.

21

22 **ACC:** My answer is going to be yes just to--to make it
23 short.

1

2 **Presiding Officer:** And you understand that you might not
3 be permitted access to certain classified
4 information and that without access to that
5 information you would be at a disadvantage?

6

7 **ACC:** I understand that.

8

9 **Presiding Officer:** Do you understand that your detailed
10 defense counsel will have access to all of the
11 information and that he will be present even
12 during closed-sessions, if any are required,
13 during times when you might be excluded?

14

15 **ACC:** You're talking about the counsel?

16

17 **Presiding Officer:** I'm talking about your detailed defense
18 counsel, yes.

19

20 **ACC:** As I told you that I don't recognize him as a
21 counsel, but you guys if you're going to force
22 him on me like I don't--I'm used to word "you
23 have to" in that place.

1

2 **Presiding Officer:** Well, I didn't----

3

4 **ACC:** You have no choice it's a compulsory procedure.

5

6 **Presiding Officer:** Excuse me. My question was, do you
7 understand that he will have access to all the
8 information and will be present for open and for
9 closed-sessions whereas you will not be permitted
10 to be present during closed-session, if we have
11 any. Do you understand that?

12

13 **ACC:** Well, I'll make the whole world to have an access
14 to classified information that I have. Nothing
15 hidden. Let me make it short, I understand.

16

17 **Presiding Officer:** Thank you. Do you realize that you may
18 be exposed to a severe penalty in this case?

19

20 **ACC:** I understand.

21

22 **Presiding Officer:** Including prolonged confinement?

23

1 **ACC:** I understand.

2

3 **Presiding Officer:** Well, let me advise you that it is my
4 view that it is unwise for you to proceed without
5 qualified counsel to represent you, whether that
6 be detailed defense counsel or a civilian counsel
7 working together with your detailed counsel, and
8 I strongly urge you to reconsider and accept
9 representation by counsel that have been offered,
10 or counsel of your selection that can work
11 together with your detailed counsel, or any
12 civilian counsel who's qualified that you--that
13 you choose. Do you understand what I've said to
14 you?

15

16 **ACC:** I understand and I advise you not to waste time
17 with me in that point. I took my decision and
18 I'm not going to change it to be honest with you.

19

20 **Presiding Officer:** Well, considering all that we've
21 discussed this morning, do you want to be
22 represented by Lieutenant Kuebler?

23

1 **ACC:** No.

2

3 **Presiding Officer:** Do you want to be represented by
4 another military counsel?

5

6 **ACC:** No.

7

8 **Presiding Officer:** Do you want to be represented by a
9 qualified civilian?

10

11 **ACC:** No.

12

13 **Presiding Officer:** By whom do you want to be represented?

14

15 **ACC:** As I said, by myself.

16

17 **Presiding Officer:** I'm going to take a brief recess during
18 which time I would like detailed counsel to meet
19 once again with your client so that I can be
20 absolutely sure he understands and has full
21 benefit of his rights to counsel before
22 proceeding any further. So we'll take about a
23 15-minute recess. The Commission is in recess.

1

2 *The Commission Hearing recessed at 0927, 27 April 2006.*

3

4 *The Commission Hearing was called to order at 0944, 27*

5 *April 2006.*

6

7 **Presiding Officer:** The Commission will come to order.

8

9 **APROS:** All parties present when the Commission recessed
10 are again present.

11

12 **Presiding Officer:** Mr. al Sharbi, during the recess, did
13 you have the opportunity to speak with your
14 detailed defense counsel?

15

16 **ACC:** Well he came and talked to me.

17

18 **Presiding Officer:** So you did have the opportunity to talk
19 to him?

20

21 **ACC:** He came and he talked to me; yes.

22

1 **Presiding Officer:** Do you have any questions about your
2 rights to counsel?

3

4 **ACC:** No.

5

6 **Presiding Officer:** Lieutenant, are you satisfied that Mr.
7 al Sharbi is fully informed of what his rights
8 with respect to representation?

9

10 **DC:** I am, sir.

11

12 **Presiding Officer:** Thank you. Mr. al Sharbi, do you want
13 to be represented by Lieutenant Kuebler?

14

15 **ACC:** No.

16

17 **Presiding Officer:** Do you want to be represented by any
18 other military counsel?

19

20 **ACC:** No.

21

22 **Presiding Officer:** Do you want to be represented by a
23 qualified civilian counsel?

1

2 **ACC:** No.

3

4 **Presiding Officer:** By whom do you want to be represented?

5

6 **ACC:** I would like to be presented by myself.

7

8 **Presiding Officer:** Now based on our discussions before,

9 you understand that certain rules apply to

10 putting information before the Military

11 Commission. Do you understand that?

12

13 **ACC:** Yes.

14

15 **Presiding Officer:** And are you familiar with what those

16 rules are? I believe you indicated earlier that

17 you are not, but I will give you another

18 opportunity. Do I understand you correctly, that

19 you are not familiar with those rules?

20

21 **ACC:** As I said, no.

22

1 **Presiding Officer:** Are you willing to abide by those
2 rules?

3

4 **ACC:** To be honest with you, I don't know what you
5 exactly are referring to, but I have to repeat
6 what I said. I am going to be compliant. I am
7 not going to cause commotion. I am not going to
8 be disruptive. If that is what you are referring
9 to.

10

11 **Presiding Officer:** Well that is part of it, and again, I
12 appreciate your courtesy. What I am trying to
13 find out is; there are specific rules that govern
14 how these proceedings are conducted before a
15 Military Commission, and you have indicated that
16 you are not familiar----

17

18 **ACC:** No.

19

20 **Presiding Officer:** -----with those rules and I accept
21 that. But my follow-up question is, were you to
22 become familiar with those, with or without the
23 help of your detailed defense counsel, are you

1 willing to use those rules in order to present your case
2 before this Commission?

3

4 **ACC:** I haven't read them. I don't know what you are
5 talking about to be honest with you. All of what
6 I have in my mind, I just am going to say what I
7 did and you guys make your decision.

8

9 **Presiding Officer:** Well I make the following findings and
10 I will supplement these as needed in the final
11 transcript or before the final transcript of this
12 session is completed; I find that you are a
13 fluent English speaker based on your 15 years of
14 speaking English and on the basis of our
15 discussion this morning, I find that you are
16 fluent and freely understand even fairly complex
17 speech.

18

19 I also find that you are well educated holding a
20 bachelor's degree from Embry Riddle University.

21

22 However, I also find that you are not familiar
23 with the Commission Law and rules governing the

1 conduct of these proceedings, and while you have indicated
2 that you are willing to be cooperative and
3 polite, as indeed you have been, that your answer
4 with respect to following the rules of procedure
5 is somewhat ambiguous given that you are not
6 familiar with the rules of procedure applicable
7 to these procedures including the introduction of
8 evidence.

9
10 I also find that you are not qualified to have
11 access to classified information and that you
12 would not be permitted to be present during
13 closed sessions of these proceedings.

14
15 Therefore, I find that if you do have a right to
16 represent yourself, that you are not qualified to
17 do so.

18
19 I also find that MCO 1 explicitly requires that
20 you be represented at all times by detailed
21 defense counsel.

22

1 So with that, Lieutenant, you are directed to
2 fulfill your responsibility as detailed defense
3 counsel in this matter.

4
5 I previously provided counsel for both sides a
6 summarized biography which appears at RE 13 and I
7 also provided RE 22, which includes my further
8 offer to provide additional background
9 information in response to--I am sorry,
10 additional background information.

11
12 Have counsel received both REs 13 and 22?

13
14 **APROS:** The prosecution has, sir.

15
16 **DC:** I have, sir.

17
18 **Presiding Officer:** Thank you. I note, however, I have not
19 received any written voir dire questions from
20 either side. Is that correct?

21
22 **APROS:** That is correct. The prosecution has no written
23 questions, sir.

1

2 **Presiding Officer:** Lieutenant?

3

4 **DC:** I have no written questions, sir.

5

6 **Presiding Officer:** Do counsel for the prosecution desire

7 to conduct voir dire of the Presiding Officer?

8

9 **APROS:** The prosecution does not, sir.

10

11 **Presiding Officer:** Does defense desire to voir dire the

12 Presiding Officer?

13

14 **DC:** Sir, before we proceed to voir dire, as I

15 indicted during our 8-5 session this morning, in

16 light of Mr. al Sharbi's responses to your

17 inquiry, I believe a number of legal and ethical

18 issues arise with respect to my status and

19 participation in these proceedings.

20

21 **Presiding Officer:** Very well. I'll hear from you.

22

1 **DC:** Yes, sir. As I indicated during the 8-5, I have
2 an ethical opinion from California, which is my
3 licensing authority, which effectively says that
4 in light of Mr. al Sharbi's rejection of my
5 services that I cannot ethically represent him in
6 these proceedings. I would like the opportunity
7 to provide the Presiding Officer with a copy of
8 that document.

9
10 I also have a copy of a request that I submitted
11 to the Navy Office of the Judge Advocate General
12 2 days ago. After I was first able to meet with
13 Mr. al Sharbi.

14
15 **Presiding Officer:** When did you first meet with Mr. al
16 Sharbi?

17
18 **DC:** Sunday, the 23rd of April, sir.

19
20 **Presiding Officer:** That's the first time you met him?

21
22 **DC:** Yes, sir.

23

1 **Presiding Officer:** Okay. You were saying.

2

3 **DC:** Yes, sir. I would like to be able to provide you
4 with a copy of the request that I submitted the
5 request to Navy OTJAG 2 days ago. I received a
6 response from [REDACTED] who is the Assistant
7 Judge Advocate General for military justice this
8 morning, which I forwarded to the Presiding
9 Officer and to the prosecution, which indicates
10 that I should have guidance from Navy OTJAG
11 within a week to 10 days concerning my status and
12 participation under the Navy Jag rules.

13

14 I also have conferred with the California Ethics
15 Hotline. I did that because the process for
16 obtaining a formal ethics opinion in California
17 is lengthy and it's ultimately discretionary;
18 however, I can provide the Presiding Officer with
19 a memorandum for record concerning those
20 consultations.

21

1 **Presiding Officer:** Well, do you also have copies of your
2 requests to the California authorities that you
3 provided?

4

5 **DC:** I'm sorry, sir.

6

7 **Presiding Officer:** Do you also have the requests that you
8 provided to California to receive those opinions?

9

10 **DC:** I have copies of the opinion letter that I
11 received from Mr. John Steele who's a----

12

13 **Presiding Officer:** No. I mean your request.

14

15 **DC:** To whom, sir?

16

17 **Presiding Officer:** To Mr. John Steele, the basis for his
18 opinion back to you. Do you have that as well?

19

20 **DC:** It's stated--it's stated in his opinion, sir.

21

22 **Presiding Officer:** Well, what was the basis of that? Was
23 that a letter or phone call or what did he go on?

1

2 **DC:** Telephonic discussions as well as documents that
3 I provided him.

4

5 **Presiding Officer:** Do you have the documents you provided
6 him?

7

8 **DC:** I'm sure I do, sir.

9

10 **Presiding Officer:** Okay. What else do you have?

11

12 **DC:** Those would be the three documents related to the
13 ethics issue, sir. In addition, Mr. al Sharbi's
14 response to the inquiry raises fundamental
15 questions concerning both his right to represent
16 himself in these proceedings, his capacity to
17 waive my participation as his detailed defense
18 counsel, and I would respectfully submit, sir,
19 that your colloquy with him concerning his, shall
20 I say, competency to represent himself misstates
21 a fundamental legal proposition as stated in
22 Godinez v. Moran, which is that his competency to
23 represent himself is not a factor in determining

1 whether or not he has the right to represent himself and to
2 waive counsel and so to the extent that you
3 relied on his answers to his questions, I believe
4 that you misapplied the standard and I would like
5 the opportunity to brief you and to argue and to
6 litigate that issue before we proceed to the
7 substance of the case.

8
9 In addition, Mr. al Sharbi in no way indicated
10 that he was unwilling to follow the rules of the
11 tribunal. What he indicated was that he was not
12 familiar with those rules, and I think in
13 fairness even if the standard that you applied is
14 the appropriate one he should be given the
15 opportunity to review those rules before he is
16 asked to state whether or not he's willing to
17 follow them. So, sir, I mean I can provide these
18 matters separately. I can provide you with
19 copies of the ethics opinions for you to review
20 and we can come back on the record. I've also
21 taken the liberty, since I anticipated this issue
22 arising, of preparing a motion addressing the
23 legal issues of self-representation, waiver of

1 the right to counsel, status of detailed counsel absent
2 acceptance by the accused, and the issue of
3 whether or not the tribunal actually has the
4 authority to make me his lawyer when he's
5 rejecting me. I would like the opportunity to
6 brief the Presiding Officer on those issues. I
7 can have that motion turned into you today as
8 soon as I fine-tune it with the facts from the
9 hearing this morning, and I can litigate that at
10 your earliest convenience as soon as the
11 government can respond.

12

13 **Presiding Officer:** Well, first let me have whatever it is
14 that you'd like me to consider and we don't need
15 to do that here because obviously I'm going to
16 have to take a minute to review the material that
17 you're going to submit.

18

19 Have you submitted them to the prosecution?

20

21 **DC:** I have not, sir.

22

1 **Presiding Officer:** Okay well let's be in recess until
2 11:00. I'd like you to provide all the
3 information that we've discussed including
4 whatever you've provided to the authorities upon
5 which they're basing their advice back to you.
6

7 **DC:** Yes, sir.
8

9 **Presiding Officer:** And I will consider that and then come
10 back on the record at 11:00 and we can further
11 discuss this to decide the way ahead.
12

13 **DC:** Thank you, sir.
14

15 **Presiding Officer:** Prosecution have anything further?
16

17 **PROS:** No, sir.
18

19 **Presiding Officer:** Lieutenant, anything further?
20

21 **DC:** No, sir.
22

1 **Presiding Officer:** Very well, the Commission is in recess
2 until 11:00.

3

4 *The Commission Hearing recessed at 0957, 27 April 2006.*

5

6 *The Commission Hearing was called to order at 1103, 27*
7 *April 2006.*

8

9 **Presiding Officer:** This Commission is called to order.

10

11 **APROS:** All parties present when the Commission recessed
12 are again present.

13

14 **Presiding Officer:** Lieutenant Kuebler, I have reviewed the
15 materials which you have provided and which
16 briefly described prior to the recess. Before
17 proceeding I have a couple of questions that I
18 would like to clarify.

19

20 You indicate in your request for an ethics
21 advisory opinion to the Assistant Judge Advocate
22 General of the Navy for Military Justice that you
23 were detailed on the 14th of November 2005 and I

1 think that is otherwise a matter of record. That you
2 thereafter attempted to meet with your client,
3 Mr. al Sharbi, however, he declined repeated
4 invitations to meet with you and indicated that
5 he did not desire your services.

6
7 Let me ask you when you first got that
8 information?

9
10 **DC:** I first attempted to meet with him on or about
11 the 15th of November, sir.

12
13 **Presiding Officer:** And is that when he told you that he
14 did not want you to represent him?

15
16 **DC:** No, I never actually spoke with Mr. al Sharbi
17 until the 23rd of April.

18
19 **Presiding Officer:** Well how did he indicate to you that he
20 did not desire your services when he declined
21 repeated invitations?

22

1 **DC:** He indicated that to General Hood, sir, and
2 General Hood indicated that to the Chief Defense
3 Counsel, Colonel Sullivan, in a telephone call
4 that occurred at, I believe in February of this
5 year, sir.

6

7 **Presiding Officer:** And that was communicated to you in
8 February?

9

10 **DC:** Yes, sir.

11

12 **Presiding Officer:** Thank you. So as of February you were
13 advised of your client's position, which he has
14 again articulated today, if I understand you
15 correctly? That is, he declined your services?

16

17 **DC:** Yes, sir. I was aware of that position at that
18 time.

19

20 **Presiding Officer:** Why did you not request your ethics
21 advisory opinion in February to address that
22 issue which apparently was fully raised at that
23 time?

1

2 **DC:** Well, sir, at that time my focus, as you know,
3 was to overcome Mr. al Sharbi's objection to
4 meeting with me. We attended an 8-5 I believe at
5 the end of February in which you directed that
6 representatives of the JTF and the prosecution be
7 present. The purpose of that meeting was to
8 discuss a way in which I could arrange a
9 telephone call or----

10

11 **Presiding Officer:** Yes, I have to say that you took good
12 measures, requested additional time for travel
13 and arranged phone calls in an effort to foster
14 your attorney-client relationship, and I commend
15 that. I think that was entirely appropriate
16 under the circumstances.

17

18 My question, however, is why, when this issue was
19 fully raised in February did you not request an
20 ethics advisory opinion while you simultaneously
21 tried to overcome the disability?

22

1 **DC:** Well, sir, the short answer to that question is
2 that I did not believe the issue fully ripe until
3 I had the opportunity to meet with Mr. al Sharbi
4 and to actually hear myself that that was his
5 position.

6

7 **Presiding Officer:** Well there is no difference, is there,
8 between the information you received in February
9 and the information you received on the 26th of
10 April? That is, you told me in February, he said
11 he did not want you to represent him and yet you
12 had been detailed and the conflict is joined at
13 that point.

14

15 **DC:** Yes, sir. I think the ethical analysis though
16 involves other factors, such as, whether or not
17 he wished to represent himself, what my
18 obligations were if he asserted that right when
19 the Tribunal didn't provide for it, what my
20 obligations----

21

22 **Presiding Officer:** How were you pursuing your
23 responsibilities as detailed counsel in the

1 interim to do such things as to prepare, to review
2 discovery, and otherwise prepare yourself if you
3 were in an ethical dilemma as of February?

4
5 **DC:** Well sir, I felt that the ethical dilemma was not
6 fully presented, absent direction from the
7 Tribunal, to represent Mr. al Sharbi. My legal
8 position has been, all along, that the act of--
9 the mere act of detailing does not create an
10 attorney-client relationship.

11

12 **Presiding Officer:** Well that may or may not be true. My
13 questions is though, and I am puzzled, why,
14 having been duly detailed and told that he does
15 not want your services, you did not immediately
16 follow what is in your detailing letter, and
17 perhaps that part, you probably did, inform your
18 supervisor, which I assume you did in February?

19

20 **DC:** I absolutely did, sir. I've had repeated
21 conversations with Colonel Sullivan about these
22 subjects.

23

1 **Presiding Officer:** And at that point, seek his advice and
2 move forward to resolve what was then an ethical
3 issue for you.

4
5 **DC:** Again, sir----

6
7 **Presiding Officer:** Because you have posed nothing, other
8 than that, in your request for advisory opinion.

9
10 **DC:** Again, sir, I mean I--I am a Navy Judge Advocate.
11 I am subject to the Rules of Professional Conduct
12 promulgated by the Judge Advocate General. I'm
13 also a California attorney. I began conferring
14 with counsel in California as early as February
15 on this issue. As you'll note from the date of
16 Mr. Steele's opinion, however, I'm consistent
17 with the position I told you 2 minutes ago, I did
18 not believe that it was actually appropriate to
19 get an opinion based on the set of facts until I
20 was able to meet with Mr. al Sharbi, and of
21 course my efforts since being detailed to this
22 case have been to achieve that goal, which
23 ultimately I was able to achieve through the

1 assistance of the Presiding Officer and the Joint Task
2 Force. We traveled to Saudi Arabia. We arranged
3 contact and I did meet with Mr. al Sharbi----

4

5 **Presiding Officer:** And I understand----

6

7 **DC:** ----and ascertained his intent.

8

9 **Presiding Officer:** ----and I complement you for that
10 because I think all of that was very important to
11 do and that's why I delayed proceedings in order
12 to give you the opportunity to do that, and I
13 think that was entirely appropriate.

14

15 What I'm having difficulty with, however, is why
16 the legal and ethical implications of your
17 dilemma were not raised when you were aware of
18 them in February, having been detailed in
19 November that you waited until literally this
20 week to request advice. And I'm puzzled about
21 that. Apparently there's no resolution other
22 than you simply didn't do it because you were
23 waiting to do other things.

1

2 **DC:** Plus, sir, I did not feel that the ethical issue
3 was ripe at that time. Again, assuming that my
4 legal position is correct on detailing not being
5 equivalent with representation provided the
6 tribunal is not directing me or requiring me to
7 undertake acts on Mr. al Sharbi's behalf, there
8 was no ethical dilemma at that time. Now that
9 I've had a chance to talk with him, he's had a
10 chance to give you his desires and intentions on
11 the record, now there is an ethical dilemma----

12

13 **Presiding Officer:** Well, I disagree with you.

14

15 **DC:** -----in terms of my ability to proceed.

16

17 **Presiding Officer:** You had an ethical dilemma as soon as
18 your client said he didn't want you and you'd
19 been detailed. That's substantially the same
20 problem that you conveyed to both the Navy Judge
21 Advocate General's Office and to California, so
22 I'm concerned about that.

23

1 Nevertheless, I am absolutely convinced that the
2 fullness and the fairness of these proceedings
3 depend upon the accused having all the
4 information that is available so that he can
5 understand his rights and make meaningful
6 informed choices about what he wants to do.
7 Included in that is his right to counsel and how
8 he chooses to be represented and participate in
9 his own defense.

10

11 I think there are some important issues raised
12 even if they are raised late that demand, in
13 fairness, that we give them careful
14 consideration. So it is my intent to have you
15 brief this and to submit whatever filing and will
16 you append all this as attachments to your brief?

17

18 **DC:** Yes, sir. I will.

19

20 **Presiding Officer:** And we need not enter them at this time
21 in the record. They'll come in on your brief,
22 but you have you brief this and given that you've

1 indicated you've substantially completed your brief, I'd
2 ask you to file it by noon tomorrow.

3
4 I will allow the prosecution 7 days to respond,
5 and I'll give you an additional 3 days to reply
6 to their response. And I will place this matter
7 on the docket during the May term, the 17th of
8 May so that we can dispose of this matter with
9 benefit of both sides.

10
11 You may be seated.

12
13 [The DC did as directed.]

14
15 **Presiding Officer:** In addition, during May it will be my
16 intention to proceed with any other motions that
17 you wish to file and have disposed of, and I will
18 continue over the other matters that were
19 scheduled for today for disposition during the
20 May hearing, which will be to conduct voir dire,
21 the reading of the charges, and entry of pleas.

22

1 I'd also like to ensure that both sides, all counsel
2 present, have reviewed Military Commission Order
3 Number 1, governing protected information.

4

5 **PROS:** Prosecution has, sir.

6

7 **Presiding Officer:** Have you, Lieutenant.

8

9 **DC:** I've reviewed those documents, yes, sir.

10

11 **Presiding Officer:** Thank you. Do all counsel understand
12 that you must, as soon as practicable, notify me
13 of any intent to offer evidence involving
14 protected information so that I can consider the
15 need to close any proceeding?

16

17 **PROS:** Prosecution is aware, sir.

18

19 **DC:** I understand, sir.

20

21 **Presiding Officer:** Thank you. I'd also like to check with
22 both counsel, the only protective orders of which
23 I am aware are Protective Orders 1, 2, and 3

1 which are marked as Review Exhibits 14, 15, and 16. Have
2 all counsel reviewed these?

3

4 **PROS:** Prosecution has, sir.

5

6 **DC:** Yes, sir, I have.

7

8 **Presiding Officer:** Thank you. Are counsel aware of any
9 other protective orders?

10

11 **PROS:** Prosecution is aware of no other protective
12 order.

13

14 **DC:** I'm not aware of any other, sir.

15

16 **Presiding Officer:** Thank you. I'll also note that all
17 current Presiding Officer Memoranda, as listed on
18 Review Exhibit 31, as well as any subsequent
19 modifications are in effect as the rules of court
20 for this Commission. The current filings
21 inventory is Review Exhibit 32. Do all counsel
22 agree that that is an accurate reflection of the

1 filings, the motions, responses, and replies and any
2 request for relief filed to date?

3

4 **PROS:** Prosecution agrees, sir.

5

6 **DC:** To my knowledge, yes, sir.

7

8 **Presiding Officer:** Just to be clear, Lieutenant, your
9 filing is due by noon tomorrow, which is 28
10 April. Prosecution has until the close of
11 business on May the 5th to response, and
12 Lieutenant, you have until the 9th of May to
13 reply to their response, and we will take this
14 matter up on the record on 17 May.

15

16 Is there anything further from either side prior
17 to recess?

18

19 **PROS:** Not from the prosecution, sir.

20

21 **DC:** I have nothing, sir.

22

1 **Presiding Officer:** Very well. This Commission is in
2 recess.

3

4 *The Commission Hearing recessed at 1115, 27 April 2006.*

**AUTHENTICATION OF
FINAL SESSION TRANSCRIPT**

in the case of:

United States v. Ghassan Abdullah al Sharbi
a/k/a/ Abdullah al Muslim
a/k/a Abu Muslim

This is to certify that the pages 1 through 58
(Authentication page) are an accurate and verbatim
transcript of the proceedings held in the above styled
case on April 27, 2006.



Daniel E. O'Toole
Captain, JAGC, U.S. Navy
Presiding Officer

10 May 2006
DATE