

UNITED STATES OF AMERICA,
Appellant

v.

MOHAMMED JAWAD
a/k/a "Amir Khan"
a/k/a "Mir Jan"
a/k/a "Sakheb Badsha,"
Appellee.

**IN THE COURT OF MILITARY
COMMISSION REVIEW**

Case No. _____

Interlocutory Appeal from the 19 November
2008 Ruling of the Military Judge on the
Defense Motion to Suppress Out-of-Court
Statements By the Accused Made While in U.S.
Custody, D-021

Presiding Military Judge Col. Stephen Henley

NOTICE OF APPEAL

Notice is hereby given that the UNITED STATES OF AMERICA hereby appeals to the United States Court of Military Commission Review from the Ruling ("Military Commission Ruling") of the Military Judge granting the Defense Motion to Suppress Out-of-Court Statements By the Accused Made While in U.S. Custody (D-021). This interlocutory appeal of the exclusion of evidence that is substantial proof of a fact material in the proceeding is taken pursuant to 10 U.S.C. § 950d(a)(1)(B) and Rule for Military Commissions ("R.M.C.") 908(a)(2).

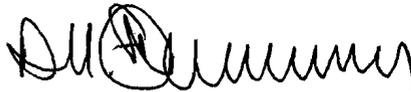
The Military Commission Ruling was entered on 19 November 2008 at 1300, and this Notice of Appeal is timely filed within the five days specified in Court of Military Commission Review Rule of Practice ("C.M.C.R.R.") 14(c)(1), R.M.C. 908(b)(7) and Regulation for Trial by Military Commissions 25-5(f). This Notice of Appeal is hereby provided to the Military Judge and to detailed military defense counsel for MOHAMMED JAWAD in accordance with the above rules. Trial counsel hereby certifies, in accordance with Regulation for Trial by Military Commissions 25-5(c) that this appeal is not taken for the purpose of delay.

In accordance with C.M.C.R.R. 14(c)(1), the Government will file its brief with the Court of Military Commission Review within 10 days of filing this Notice of Appeal. In accordance

with that same rule, the Defense must file any answer within 10 days of receiving the Government brief, and any Government reply brief must be filed within five days of receiving the Defense brief and must be accompanied by a motion for leave to file under C.M.C.R.R. 14 (k).

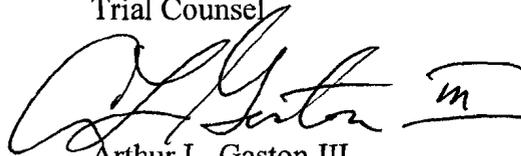
Upon completion of briefing, and in accordance with C.M.C.R.R. 22, the Government respectfully requests that this matter be calendared as soon as possible for oral argument before the Court of Military Commission Review, as a trial date of 5 January 2009 has already been set by the Military Judge.

Respectfully submitted,



Douglas M. Stevenson
Lt Col, U.S. Air Force
Trial Counsel

John T. Ellington
CDR, JAGC, U.S. Navy
Trial Counsel

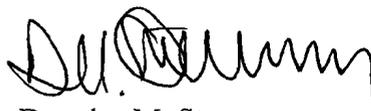


Arthur L. Gaston III
LCDR, JAGC, U.S. Navy
Trial Counsel

Office of the Chief Prosecutor
Office of Military Commissions
1610 Defense Pentagon
Washington, D.C. 20301-1610
(703) 602-4173

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was e-mailed to Stephen R. Henley, COL, USA,
Military Judge, at 1000 on 24 November 2008.

A handwritten signature in black ink, appearing to read "D.M. Stevenson", with a stylized flourish at the end.

Douglas M. Stevenson
Lt Col, U.S. Air Force
Trial Counsel

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was e-mailed to David Frakt, Maj, USAF, Detailed Defense Counsel, at 1000 on 24 November 2008.

A handwritten signature in black ink, appearing to read "D.M. Stevenson", with a stylized, cursive flourish at the end.

Douglas M. Stevenson
Lt Col, U.S. Air Force
Trial Counsel

BEFORE THE MILITARY COMMISSION

UNITED STATES OF AMERICA

v.

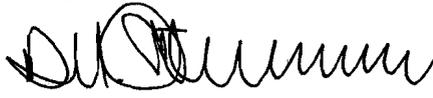
MOHAMMED JAWAD

Government Motion
to Stay All Commission Proceedings Pending
Disposition of Government's Interlocutory
Appeal to the Court of Military Commission
Review

24 November 2008

1. **Timeliness.** This motion is timely filed in conjunction with the government's timely Notice of Appeal of the Commission's D-021 Ruling of 19 November 2008.
2. **Relief Requested.** The United States requests a stay of all Commission proceedings pending resolution of its interlocutory appeal of the Commission's D-021 Ruling to the Court of Military Commission Review.
3. **Discussion.** Pursuant to Rule for Military Commissions (R.M.C.) 908(b)(8), written notice of appeal to the military judge under R.M.C. 908(b)(3) serves to stay all Commission proceedings pending disposition of the appeal, with the exception of those related to charges and specifications not affected by the ruling. Since in this case, the ruling directly affects the sole charge and all its specifications, as well as the underlying issue of jurisdiction, all scheduled proceedings should be stayed pending the outcome of the appeal.

Respectfully submitted,



Douglas M. Stevenson
Lt Col, U.S. Air Force
Prosecutor

John T. Ellington
CDR, JAGC, U.S. Naval Reserve
Prosecutor



Arthur L. Gaston III
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