



DEPARTMENT OF DEFENSE
OFFICE OF THE CHIEF PROSECUTOR
OFFICE OF MILITARY COMMISSIONS
1610 DEFENSE PENTAGON
WASHINGTON, DC 20301-1610

March 1, 2007

MEMORANDUM FOR Detainee David M. Hicks 0002, Guantanamo Bay, Cuba

SUBJECT: Service of Referred Charges

You are hereby served with a copy of the charges referred against you on the 1st day of March, 2007, pursuant to the Military Commissions Act of 2006 (MCA) and the Manual for Military Commissions (MMC). A copy of the referred charges are being provided to you and your detailed defense counsel.

(Pursuant to Rules of Military Commission (RMC) 602, a copy of the referred charges shall be served in English and, if appropriate, in another language that the accused understands. If the accused has questions when served with charges, the accused should be told to discuss the matter with defense counsel.)

AFFIDAVIT OF SERVICE

I hereby certify that a copy of the referred charges were served on the above named detainee this 1st day of March, 2007.

Joint Task Force - GTMO
Organization

Typed or Printed Name and Grade

Address of Organization _____

FOR OFFICIAL USE ONLY

However, in my opinion, the evidence for the Specification of Charge II and Charge II, Attempted Murder in Violation of the Law of War, is insufficient to establish probable cause. See R.M.C. 406, Discussion. In particular, the evidence does not adequately support the Specification's allegation, *inter alia*, that Hicks attempted to commit murder in violation of the law of war "by directing small arms fire, explosives, or other means and methods, with the intent to kill divers persons of the United States, Northern Alliance, or other Coalition forces"

c. Conclusion with respect to whether a military commission would have jurisdiction over the accused and the offense.

The President is authorized to establish military commissions under chapter 47A of title 10, United States Code. 10 U.S.C. § 948b(b). The President, by executive order on February 14, 2007, established military commissions to try alien unlawful enemy combatants for offenses triable by military commission as provided in chapter 47A of title 10. Military commissions may try any offense under the M.C.A. or the law of war when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001. 10 U.S.C. § 948d(a); R.M.C. 203. A Combatant Status Review Tribunal determined on September 30, 2004, that Hicks is an enemy combatant and a member of or affiliated with al Qaeda. The M.C.A. defines such persons as unlawful enemy combatants. 10 U.S.C. § 948a(1). Finally, Hicks is a citizen of Australia and not of the United States. Therefore, it is my opinion that a military commission has both *in personam* and subject matter jurisdiction over Hicks.

d. Conclusion with respect to whether trial of the charges would be harmful to national security.

I have concluded, after consultation with the Office of the Director of National Intelligence and appropriate intelligence agencies, that trial of the charges would not be harmful to national security.

e. Recommendation of the action to be taken by the convening authority.

I recommend that you approve and refer Specifications 1 and 2 of Charge I and Charge I, Providing Material Support for Terrorism, to trial by military commission. I recommend that you dismiss and do not refer the Specification of Charge II and Charge II, Attempted Murder in Violation of the Law of War, to trial.

Concur
S/L
3-1-07

Brigadier General, U.S. Air Force
Legal Advisor to the Convening Authority
for Military Commissions

FEB 21 2007



DEPARTMENT OF DEFENSE
 OFFICE OF THE CHIEF PROSECUTOR
 OFFICE OF MILITARY COMMISSIONS
 1610 DEFENSE PENTAGON
 WASHINGTON, DC 20301-1610

2 Feb 07
 (day) (month) (year)

MEMORANDUM FOR Detainee David M. Hicks 0002, Guantanamo Bay, Cuba

SUBJECT: Notification of the Swearing of Charges

1. You are hereby notified that criminal charges were sworn against you on the 2nd day of Feb, 2007, pursuant to the Military Commissions Act of 2006 (MCA) and the Manual for Military Commissions (MMC). A copy of this notice is being provided to you and to your detailed defense counsel.

2. Specifically, you are charged with the following offenses:

PROVIDING MATERIAL SUPPORT FOR TERRORISM

ATTEMPTED MURDER IN VIOLATION OF THE LAW OF WAR

(Read the charges and specifications to the accused. If necessary, an interpreter may read the charges in a language other than English, that the accused understands.)

AFFIDAVIT OF NOTIFICATION

I hereby certify that a copy of this document was provided to the named detainee this 2nd day of Feb, 2007.

Signature

CITF
 Organization

Typed or Printed Name and Grade

Address of Organization

**CRIMINAL INVESTIGATION TASK FORCE
REPORT OF INVESTIGATIVE ACTIVITY**

1. DATE OF INVESTIGATIVE ACTIVITY
02 FEB 07

2. PLACE
(See Narrative)

3. ACTIVITY NUMBER
07020508540790

4. REMARKS

Notification of Charges Sworn 20070202 - USXAS-000002DP

Date/Place: 02 Feb 07

(FOUO/LES) Between 1735 and 1810, 2 Feb 07, SA _____, Criminal Investigation Task Force (CITF) served Notification of Charges Sworn to David M. Hicks, ISN USXAS-00002DP. SA _____, CITF witnessed the notification, which occurred in an interview room of Camp Six, United States Naval Station Guantanamo Bay, Cuba.

THIS DOCUMENT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF CITF. IT IS THE PROPERTY OF THE CITF AND IS LOANED TO YOUR AGENCY; THIS DOCUMENT IS NOT TO BE RELEASED OUTSIDE YOUR AGENCY.

FOUO/LES

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ERRATA SHEET

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UNITED STATES v. DAVID MATTHEW HICKS, also known as DAVID MICHAEL HICKS, ABU MUSLIM AUSTRALIA, ABU MUSLIM AUSTRALI, <u>ABU MUSLIM PHILIPPINE</u> , and MUHAMMAD DAWOOD		Office of Military Commissions Office of the Convening Authority Washington, D.C.		Date Submitted to PROS: Via electrons 3 April 2007		
Reporter: MSG , US Army		Date(s) of Trial 26 & 30 March 2007		Date Submitted to DDC Via electrons 3 April 2007		
				Date Submitted to MJ Via electrons 11 April 2007		
Date Record Completed 3 April 2007		Date Completed by PROS: 6 April 2007	Date Completed by DDC: 10 April 2007	Date Authenticated by MJ:		
Page	Line	Change	To	PROS Initials	DDC Initials	MJ Initials
10	12	with	in			
38	12	in	and			
38	17	in	and			
46	4	haven't	have it			
52	6	whom	who			
67	16	"essential"	"essentially"			
71	1	I	it			
74	24	"a Maj Mori"	"by Maj Mori"			
80	11	"cleansed"	"cleansed"			
91	14	as	has			
125	12	"Hick"	"Hicks"			
176	1	[Delete entire line]	[Delete entire line]			
217	21	"and tell"	"until"			
220	14	in tact	intact			
231	5	"The may"	You may"			
239	11	[Delete entire line]	[Delete entire line]			
Typed Name & Grade [Military Judge] , Colonel, USMC			Signature 	Date 19 April 2007		
Typed Name & Grade [Prosecutor] LtCol, USMC			Signature	Date		
Typed Name & Grade [Detailed Defense Counsel] MICHEAL D. MORI, Maj, USMC			Signature	Date		

ERRATA SHEET

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UNITED STATES v. DAVID MATTHEW HICKS, also known as DAVID MICHAEL HICKS, ABU MUSLIM AUSTRALIA, ABU MUSLIM AUSTRALI, ABU MUSLIM PHILIPPINE, and MUHAMMAD DAWOOD		Office of Military Commissions Office of the Convening Authority Washington, D.C.		Date Submitted to PROS: Via electrons 3 April 2007		
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Date Record Completed 3 April 2007		Date Completed by PROS:	Date Completed by DDC:	Date Authenticated		
Page	Line	Change	To	PROS Initials	DDC Initials	MJ Initials
2	9-10	"The prosecution caused a copy of The Charge in English which is the accused's native language to be served on the accused on 1 March 2007."	"The prosecution caused a copy of the Charge in English, which is the accused's native language, to be served on the accused on 1 March 2007."			
7	17	"... that will not be representing"	"... but will not be representing"			
10	22	"was"	"were"			
12	7	"scheduled"	"schedule"			
12	11	"... I advise them ..."	"... I advised them ..."			
19	12	"... and is seeking ..."	"... and in seeking ..."			
23	12	"filed"	"file"			
28	3	"ultravirus"	"ultra vires"			
32	16	"... if you don't want in there"	"... if you don't want him there ..."			
33	3	"... that there is more information"	"... that there is important information ..."			
34	15	"... there rule ..."	"... the rule ..."			
53	5	"Bork"	"Borch"			
53	8 & 23	"Altenberg"	"Altenburg"			
56	21	"... except is provided ..."	"... except as provided ..."			
61	13	"Altenberg"	"Altenburg"			
64	1	"... our personnel present ..."	"... all personnel present"			
66	5	"... there is been a proffer ..."	"... there has been a proffer"			

75	18	"cause"	"caused"		
77	17	"I would request that it impossible the parties ..."	"I would request that if it's possible the parties ..."		
77	21	"... to address this time?"	"... to address at this time?"		
92	3	"... international terrorism organization ..."	"... international terrorist organization ..."		
111	13	"... with no enemy at sight in Kandahar ..."	"... with no enemy in sight at Kandahar ..."		
112	1	Delete "you're"			
115	6	"1"	"one"		
122	13	"were"	"when"		
124	21	"your"	"you're" or "you"		
140	13	"... from a part ..."	"... from a party ..."		
141	4	"... should the Government of the United States that ..."	"... should the Government of the United States determine that ..."		
144	22	"ahs"	"has"		
146	12	"adjudge"	"adjudged"		
157	17	"... 957v(b) (25) ."	"... 950v(b) (25) ."		
159	1	"... convening quarter ..."	"... convening order ..."		
169	19	"Members, have of your ever been ..."	"Members, have any of you ever been ..."		
173	9	"Are all the folders closed with the notes covered up their?"	"Are all the folders closed with their notes covered up?"		
175	16	"Well it's just a branch that it can within the Army ..."	"Well it's just a branch that I came from within the Army ..."		
183	7	"know"	"now"		
184	3	"USS Baton"	"USS Bataan"		
201	3	"lives"	"life"		4:44:06
203	3	"I will remind you and bring up ..."	"I will remind you and bring it up ..."		4:48:06
203	7	"He saw firsthand."	"He saw it firsthand."		
203	15	"... on the battle fronts ..."	"... on two battle fronts ..."		
204	9	"Al Qaeda places zero value own life."	"Al Qaeda places zero value on life."		

ERRATA SHEET

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Page	Line	Change	To	PROS Initials	DDC Initials	MJ Initials
3	3	REBECCA R. SNYDER	REBECCA S. Snyder	[initials]		
8	22	OWN	ON			
15	5	948(K)(a)2	948K(a)(2)			
22	17	you	she			
28	3	ultravirus	ultra vires			
34	3	condien	conferred			
34	15	These rule	The rule			
X 42	7	1 st of March				
50	15	IT was what	What			
54	17	Known	aware			
61	1	Our	all			
77	17	it	if			
79	13	client's	cleansed			
Typed Name & Grade (Military Judge) , COL, USMC			Signature	Date		
Typed Name & Grade (Prosecutor) , LtCOL, USMC			Signature	Date		
Typed Name & Grade (Detailed Defense Counsel) MICHAEL D. MORI, Maj, USMC			Signature	Date		

10 Apr 07

ERRATA SHEET

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UNITED STATES v. DAVID MATTHEW HICKS, also known as DAVID MICHAEL HICKS, ABO MUSLIM AUSTRALIA, ABO MUSLIM AUSTRALIA, ABO MUSLIM PHILIPPINE, and MUHAMMAD DAWOOD		Office of Military Commissions Office of the Convening Authority Washington, D.C.		Date Submitted to PROS: Via electrons 3 April 2007		
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Page	Line	Change	To	PROS Initials	DDC Initials	MJ Initials
✓ 81	18	as	ask			
✓ 112	1	and you're your	and your			
✓ 124	3	Mr. Hick	Mr. Hicks			
✓ 144	22	Ahs	hes			
✓ 146	12	adjudge	adjudged			
✓ 164	19	will submittal	will be submitted			
✓ 198	18	apologized	apologizes [3 words]			
✓ 212	12	Two hours	Two hours			
✓ 219	13	and to thereby	and thereby			
✓ 221	20	judge you will	judge will			
✓ 221	20	then	than			
✓ 222	5	punishment that	punish for what			
✓ 225	18	5 years	5 years			
Typed Name & Grade [Military Judge] , COL, USMC			Signature	Date		
Typed Name & Grade [Prosecutor] , LtCol, USMC			Signature	Date		
Typed Name & Grade [Detailed Defense Counsel] MICHAEL D. MORI, Maj, USMC			Signature	Date 10 APR 07		



DEPARTMENT OF DEFENSE
OFFICE OF THE CHIEF PROSECUTOR
1610 DEFENSE PENTAGON
WASHINGTON, DC 20301-1610

February 28, 2007

MEMORANDUM FOR LIEUTENANT COLONEL
LIEUTENANT
LIEUTENANT

USMC

USN
USN

SUBJECT: Detailed Prosecutors

Consistent with my authority as Chief Prosecutor and the provisions of Rule 501(b), Manual for Military Commissions, dated January 18, 2007, the above named counsel are detailed and designated as follows for the case of United States v. David Matthew Hicks:

Detailed Prosecutor:

Lieutenant Colonel USMC

Detailed Assistant Prosecutor:

Lieutenant USN

Lieutenant USN

Colonel, United States Air Force
Chief Prosecutor
Office of Military Commissions

cc:

Deputy Chief Prosecutor

There were no Convening Orders published in 2006

DEPARTMENT OF DEFENSE
OFFICE OF MILITARY COMMISSIONS
OFFICE OF THE CONVENING AUTHORITY
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

MILITARY COMMISSION CONVENING ORDER
NUMBER 07-01

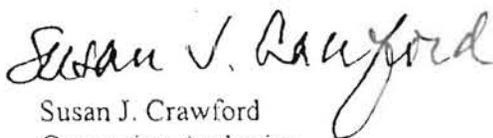
1 March 2007

Pursuant to the authority vested in the Secretary of Defense in accordance with the Military Commissions Act of 2006, 10 U.S.C. § 948h, and my appointment as Convening Authority for Military Commissions on February 6, 2007, a military commission is hereby convened. It may proceed at Guantanamo Bay, Cuba, unless otherwise directed, to try such persons as may be properly brought before it. The military commission is convened with the following members:

MEMBERS

<u>RANK</u>	<u>NAME</u>	<u>SVC</u>	<u>ASSIGNMENT</u>
COL		USA	
Col.		USAF	
Col.		USAF	
Capt.		USN	
COL		USA	
Capt.		USN	
Capt.		USN	
Col.		USMC	
Lt.Col.		USAF	
MAJ		USA	

DISTRIBUTION:
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Record of Trial (1)
Reference Set (1)



Susan J. Crawford
Convening Authority
for Military Commissions

OFFICE OF MILITARY COMMISSIONS
OFFICE OF THE CONVENING AUTHORITY
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

CONVENING ORDER
NUMBER 07-03

29 March 2007

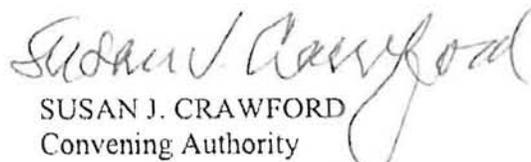
The officers listed below were detailed as members of the military commission convened by the undersigned Convening Authority by Convening Order 07-01, dated 1 March 2007.

Vice COL _____, US Army, and MAJ _____, US Army, for the case of United States of America v. David Matthew Hicks only:

Add the following alternate members for the case of United States of America v. David Matthew Hicks only:

MEMBERS

<u>RANK</u>	<u>NAME</u>	<u>SVC</u>	<u>ASSIGNMENT</u>
COL		USA	
COL		USAF	


SUSAN J. CRAWFORD
Convening Authority
For Military Commissions

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Record Set (1)