

**MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY, CUBA**

<p><b>UNITED STATES OF AMERICA</b></p> <p>v.</p> <p><b>KHALID SHAIKH MOHAMMAD, WALID MUHAMMAD SALIH MUBARAK BIN ‘ATTASH, RAMZI BIN ALSHIBH, ALI ABDUL AZIZ ALI, MUSTAFA AHMED ADAM AL HAWSAWI</b></p>	<p><b>AE200EE</b></p> <p><b>ORDER</b></p> <p>Motion of the Redress Trust for Leave to Intervene in Support of the Defense Motion to Dismiss Because the Amended Protective Order #1 Violates the Convention Against Torture (AE-200) and for Order Granting Permission to Obtain Written Authority from Mr. al-Hawsawi</p> <p><b>27 November 2013</b></p>
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1. The Redress Trust (REDRESS), an international non-governmental human rights organization, filed a Motion for Leave to Intervene (AE 200J) in support of the motions of all five Accused to dismiss charges averring Amended Protective Order #1 violates the Convention Against Torture. In the same filing, REDRESS requested this Commission issue an order granting it permission to obtain written authorization from Mr. Hawsawi to represent him in various other nation-state and international courts and tribunals. The Government is opposed to allowing third party intervention by advocacy groups outside of established *amicus curiae* pleadings.<sup>1</sup> (AE 200T). Mr. Mohammad filed a Notice of Support for REDRESS’s motion. (AE 200V (KSM)). REDRESS filed a reply (AE 200X) noting the Commission allowed the International Committee of the Red Cross (ICRC) to be heard on a motion, AE 108K.

<sup>1</sup> See Rule 8, Military Commissions Trial Judiciary Rules of Court, 24 April 2013 (Amended 4 June 2013).

2. **Motion for Leave to Intervene.** Direct intervention by third parties in a criminal trial is not generally recognized and not permitted by statute or regulation save in a Military Commission. Regulation for Trial by Military Commission, paragraph 19-3d, 2011 ed., provides authority for third parties to intercede when the issue of closing a proceeding is before the Commission. There is a body of Federal precedent permitting third party intervention in criminal cases when a claim of an evidentiary privilege by the third party is at issue. *See In re GRAND JURY PROCEEDINGS IN the MATTER of Yale FREEMAN*, 708 F.2d 1571 (11<sup>th</sup> Cir. 1983) and *Feeny v. Winner*, 641 F.2d 821 (10<sup>th</sup> Cir. 1981). REDRESS's interests are neither privacy interests nor privileged communications inuring to it and are thus distinguishable from the interests asserted by the ICRC in the AE 108 litigation.

3. **Request for Order Granting Permission to Obtain Mr. Hawsawi's Written Authority.**

This Commission was established to "try alien unprivileged enemy belligerents for violations of the law of war and other offenses triable by military commission." 10 U.S.C. §948b(a). It is concerned only with matters impacting the conduct of the proceedings before it and not with proceedings in other nation-state and international courts and tribunals. The Commission has no authority to grant the requested relief. Additionally, the Commission will not intervene in the daily operations of the detention facility absent a showing some aspect of those operations adversely impacts these proceedings.

4. RULINGS.

- a. REDRESS's request to intervene is **DENIED**.

b. REDRESS's request for an order granting it permission to obtain authority from Mr. Hawsawi to represent him in various nation-state and international courts and tribunals is **DENIED.**

So ORDERED this 27th day of November, 2013.

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JAMES L. POHL  
COL, JA, USA  
Military Judge