

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

UNITED STATES OF AMERICA

v.

**KHALID SHAIKH MOHAMMAD,
WALID MUHAMMAD SALIH
MUBARAK BIN ATTASH,
RAMZI BINALSHIBH,
ALI ABDUL AZIZ ALI,
MUSTAFA AHMED ADAM AL
HAWSAWI**

AE 350JJ

ORDER

Closure of Proceeding Held
29 October 2015

30 October 2015

1. The Military Judge may close all or a portion of Commission proceedings upon appropriate findings in accordance with 10 U.S.C. § 949d(c) and Rule for Military Commissions (R.M.C.) 806(b)(2).
2. Mr. Aziz Ali (aka “al Baluchi”), through counsel, notified the Commission of his intent to disclose classified information pursuant to Military Commission Rule of Evidence (M.C.R.E.) 505(g)(1)(A).¹
3. The Government moved² this Commission to conduct a hearing pursuant to M.C.R.E. 505(h)(1)(A) to determine the use, relevance, and admissibility of the classified information identified in Mr. Aziz Ali’s notifications.
4. The Commission conducted the M.C.R.E. 505(h) hearing on 29 October 2015 with counsel for all Accused present and held the classified information was relevant for argument regarding the AE 350 series of motions.

¹ AE 380B(AAA), Defense Notice Pursuant to M.C.R.E. 505(g)(1)(A), filed 20 October 2015.

² AE 380H(GOV), Government Motion For an M.C.R.E. 505(h) Hearing, filed 20 October 2015.

5. Following the M.C.R.E. 505(h) hearing on 29 October 2015, the Commission moved into a closed hearing wherein the parties presented classified oral argument before the Commission regarding the AE 350 series of motions.

6. Prior to closing the hearing, the Commission made the findings set forth in paragraph seven of this Order.

7. FINDINGS:

a. The classified information the Defense seeks to disclose is relevant and necessary to a fair determination of the issues presented by the AE 350 series of motions pending before the Commission.

b. After hearing oral argument and reviewing the information in AE 380B(AAA), the Commission finds the Government has demonstrated an overriding interest in preventing public disclosure of classified information that could result in grave danger to national security and could reasonably be expected to damage national security, including intelligence or law enforcement sources, methods, or activities.

c. Closure of a portion of these proceedings, in accordance with R.M.C. 806(b)(2), is necessary to prevent public disclosure of classified information.

d. The closure of proceedings ordered herein is narrowly tailored to protect information that, if publically disclosed, would pose a grave danger to national security. A redacted transcript of the closed session, excising only classified national security information, will be provided in accordance with the Regulation for Trial by Military Commission and the Military Commissions Trial Judiciary Rules of Court (5 May 2014).

e. There are no less restrictive means or reasonable alternatives, other than closure of a limited portion of the proceedings, which would adequately protect the compelling interest in preventing public disclosure of this classified national security information.

8. ORDER:

a. The Commission will hear oral argument on the AE 350 series of motions in a closed session on 29 October 2015.

b. The closed session will be limited to evidence and argument pertaining to the classified information described in AE 380B(AAA).

c. A redacted, unclassified transcript of the closed session will be prepared expeditiously and provided to the public in a similar manner as the unauthenticated transcripts of open sessions.

So **ORDERED** this 30th day of October 2015.

//s//
JAMES L. POHL
COL, JA, US Army
Military Judge