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1 [The R.M.C. 803 session was called to order at 1400,
2 11 February 2015.]

3 MJ [COL POHL]: The commission is called to order. All
4 parties are again present that were present when the
5 commission recessed.

6 General Martins? Or Mr. Trivett, whoever is speaking
7 on behalf of the government.

8 MDTC [MR. TRIVETT]: Your Honor, the prosecution's
9 position is that you should continue to hold in abeyance your
10 severance order for the foreseeable future.

11 A couple of issues came up in your questioning of
12 General Martins I just wanted to clarify. In regard to the
13 comment made in 292 that -- I'm sorry, in the amended
14 docketing order regarding 292, is that ultimately that was a
15 response to your amending the docketing order, and when you
16 amended the docketing order, when severance came up first, we
17 believed we were going to have to make a full-fledged
18 severance argument again. And in doing that we simply asked
19 that 292 be moved in front of that argument for severance
20 because we thought the resolution of 292 would more fully
21 inform. So that's what we intended to say. If that was
22 inartful, then that's on us, but I wanted to clarify that
23 because you had that question.

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1 As far as the path forward for the rest of the
2 session, we do believe that there is certain work that can be
3 done. As we set forth in our request to amend the docketing
4 order, Mr. Hawsawi has listed long-term motions that he would
5 like resolution on, there's seven of them. As far as I can
6 tell, they are not joined by any other parties, they are
7 specific to either Mr. Hawsawi or Mr. Ruiz as his learned
8 counsel. We would certainly not object to going forward on
9 those should he want resolution of those. We don't think that
10 that impacts in any way Mr. Binalshibh's right to counsel. We
11 think it's appropriate at times to handle individual issues in
12 this joint trial, even without other counsel if necessary. So
13 we believe that those things can move forward.

14 We also believe that, although it wouldn't
15 necessarily happen during the session, that there are certain
16 motions on the docket that you could decide without oral
17 argument. We believe the standard is whether or not you need
18 oral argument to decide the issues, not whether or not the
19 defense or the prosecution wants oral argument.

20 And specifically we would ask that motions to compel
21 evidence on 254 related to the female guard issue is something
22 you can resolve without any further argument. Certainly the
23 prosecution's positions as to why to grant or deny certain

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1 evidence isn't going to change much in oral argument. And we
2 submit, Your Honor, that you have enough at this point in time
3 to make decisions on those so that whenever we do come back
4 from whatever recess that you order, that we will actually be
5 able to litigate that. It is very important to the camp and
6 to the government to have resolution on that as soon as
7 possible.

8 MJ [COL POHL]: Is there any other discovery issues you
9 think can be resolved without oral argument?

10 MDTC [MR. TRIVETT]: Generally for discovery issues, to be
11 honest with you, sir, is that the prosecution's position is
12 what is in the filings. We are not going to be able -- other
13 than specific questions you may have on them, our position on
14 discovery responses, especially denials, are usually set forth
15 in our pleadings. So we think that's a way to certainly
16 expedite the hearings, is that once you have our denial of
17 discovery, simply rule on the motions to compel without oral
18 argument. That will expedite us from having to disclose
19 whatever discovery is required especially for hearings that
20 are coming up in the future.

21 MJ [COL POHL]: And then the government plan would be then
22 that would front load the underlying motion for down the road
23 rather than bifurcating it into two separate hearings?

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1 MDTC [MR. TRIVETT]: Yes, sir.

2 MJ [COL POHL]: By that I mean having a hearing on the
3 motions and then -- okay. I got it.

4 MDTC [MR. TRIVETT]: Yes, sir.

5 MJ [COL POHL]: Okay.

6 MDTC [MR. TRIVETT]: The third thing we think you can
7 handle is the long-outstanding issue of the signing of the
8 MOU, at least as to the three counsel other than
9 Mr. Binalshibh's counsel. This is enforcement of an order
10 that you already set forth.

11 MJ [COL POHL]: Isn't there a new MOU? Isn't there a new
12 protective order proposed by the government?

13 MDTC [MR. TRIVETT]: There is a new protective order
14 proposed by the government in that we are recommending the
15 striking of certain language. We don't know that necessarily
16 a formally executed MOU would not be satisfactory. If you
17 look at the purpose for our MOU, it is to track everybody that
18 they understand ----

19 MJ [COL POHL]: I understand. I don't need to relitigate
20 that. But I'm saying has the government, and I don't have the
21 date, submitted, in light of the SSCI report ----

22 MDTC [MR. TRIVETT]: Correct.

23 MJ [COL POHL]: ---- submitted a new protective order.

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1 MDTC [MR. TRIVETT]: Correct.

2 MJ [COL POHL]: And so I have not had the defense response
3 to it yet.

4 MDTC [MR. TRIVETT]: Correct.

5 MJ [COL POHL]: Now, whether it needs to be orally argued
6 is a separate issue altogether, but shouldn't the defense have
7 an opportunity to weigh in on the protective order before I
8 say you have got to sign an MOU for a protective order that
9 you have not had an opportunity to reply to?

10 MDTC [MR. TRIVETT]: The government's position regarding
11 the amended protective order is that it all inures to the
12 benefit of the defense in that it is easier and less
13 complicated for them to litigate issues from categories that
14 were classified that are no longer classified. So we don't
15 believe there is any additional litigation.

16 MJ [COL POHL]: Let's focus on what we need to do here. I
17 mean, you have discussed discovery issues and you are saying
18 those can be addressed.

19 MDTC [MR. TRIVETT]: Yes, sir.

20 MJ [COL POHL]: Arguably the MOU ----

21 MDTC [MR. TRIVETT]: Yes, sir.

22 MJ [COL POHL]: ---- since it has been litigated to death,
23 even though the wording is now changed a bit, you know, you

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1 have got to give them a chance to respond.

2 MDTC [MR. TRIVETT]: Understood.

3 MJ [COL POHL]: So other than Mr. Hawsawi's standalone
4 motions, what could be litigated now, or is that it?

5 MDTC [MR. TRIVETT]: I think that's it unless there is
6 other business certainly that the defense wants to get to that
7 can be brought to our attention that wouldn't require
8 Mr. Binalshibh to have counsel. It could be -- there might be
9 other motions, what I am saying, sir, on the docket that are
10 specific to one of the accused that we didn't identify that
11 Mr. Binalshibh is not a party to that we would certainly -- we
12 would certainly not oppose arguing while we are down here.

13 MJ [COL POHL]: Okay. Got it.

14 MDTC [MR. TRIVETT]: And if I could just have a moment to
15 confer, sir?

16 MJ [COL POHL]: Sure.

17 [Pause]

18 MJ [COL POHL]: Mr. Trivett?

19 MDTC [MR. TRIVETT]: Yes, sir. A couple of additional
20 points. I do recall that when we were arguing AE 008, that
21 all other counsel are done arguing with the exception of
22 Ms. Bormann, who has a closed session that she had asked to
23 mention certain classified information within that closed

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1 session. Since all other argument has been made by other
2 counsel, we think it might be appropriate to do that.

3 We also think that there could be some benefit for
4 the commission, for the SRT and certainly for the conflict
5 counsel to remain down here. It's possible that everyone
6 could benefit from some additional litigation and
7 clarification of what's necessary to go forward. Again, I
8 don't know what I don't know, but having that possibility
9 continue open certainly through the scheduled sessions may
10 prove to be helpful for all parties.

11 And lastly, sir, in regard to the MOU and the request
12 to amend the protective order, it is our strong position that
13 they certainly are entitled to reply, but we would hope that a
14 decision get made without oral argument specifically on that
15 because of how exhaustive the oral argument has been up to
16 this date and due to the fact that we are cutting two
17 categories, because we are cutting two of the categories as
18 being classified.

19 MJ [COL POHL]: Okay. On 334C, starting on page 10, going
20 through page 11, there is a list of seven Hawsawi motions, and
21 those are the seven you say are specific only to Mr. Hawsawi?

22 MDTC [MR. TRIVETT]: That's our belief, sir, yes.

23 MJ [COL POHL]: Okay.

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1 MDTC [MR. TRIVETT]: Absent further questions.

2 MJ [COL POHL]: Let me start in a different order here,
3 Mr. Nevin.

4 Mr. Ruiz?

5 LDC [MR. RUIZ]: Yes, sir.

6 MJ [COL POHL]: Since they are pinning the rose on you,
7 what is your position about these seven, what they are
8 characterizing as standalone, Hawsawi-specific motions?

9 LDC [MR. RUIZ]: If we could identify the seven?

10 MJ [COL POHL]: They are in 334C, if you have it in front
11 of you.

12 LDC [MR. RUIZ]: I do. Here are the ones I have. I
13 wanted to make sure that we are on the same page.

14 MJ [COL POHL]: I am reading the ones on page 10 and going
15 to page 11.

16 LDC [MR. RUIZ]: I'm sorry, I was looking at your docket.

17 MJ [COL POHL]: Okay.

18 LDC [MR. RUIZ]: Yes.

19 MJ [COL POHL]: Yes?

20 LDC [MR. RUIZ]: What's your question?

21 MJ [COL POHL]: My question is, is they say these are all
22 standalone motions related only to your client and therefore
23 the issue dealing with 292 that you have unjoined would permit

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1 us to do that this week?

2 LDC [MR. RUIZ]: To the best of my recollection, these
3 are -- all I can tell you is these are motions we filed. I
4 can't tell you to what extent other teams unjoined. My
5 recollection is unless a team specifically unjoins, they are
6 joined and, therefore, there are no individual motions in and
7 of themselves.

8 MJ [COL POHL]: But on the other hand, if you look at the
9 nature of the motion itself, if it says specific to something
10 with your team -- I'm assuming is the way the defense is
11 gleaning. I don't have them in front of me so I can't tell
12 you what they say.

13 LDC [MR. RUIZ]: I believe these all deal with specific
14 issues relating to Mr. Hawsawi, technically speaking they are
15 not unjoined, I agree with that.

16 MJ [COL POHL]: Thanks.

17 Ms. Bormann. When we last left one of our legacy
18 motions, 008 ----

19 LDC [MS. BORMANN]: 008.

20 MJ [COL POHL]: ---- all that was left was your closed
21 session argument.

22 LDC [MS. BORMANN]: This is actually like Groundhog Day,
23 right? So the reason we didn't hear the closed session on the

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1 last time was because we were interrupted by a series of
2 mishaps, including the intervention of the FBI in the defense
3 function, and that of course is still the case. That evidence
4 was presented in a joint proceeding with all of the defense
5 counsel present, so without -- and this was your earlier
6 ruling, without the participation of a conflict-free
7 defendant, that being Mr. Binalshibh, you weren't going to
8 proceed.

9 We now have the additional issue of the likelihood
10 that the material that was the subject of the 505 hearing is
11 now declassified. I have looked at it recently, and most of
12 it seems to fall within the exception that the government
13 argues now exists due to the SSCI study.

14 So with proper determination and declassification,
15 there is no reason to do it in a closed session and, in fact,
16 I would argue I would like to do it in an open session. The
17 allegations and material in it I think is germane to this case
18 as you have determined, and I think the public has a right to
19 hear it.

20 So I know the government seeks declassification as we
21 speak. Whether it falls into the April or September set of
22 materials I can't tell you, but you have ordered that they
23 determine its classification level given the new guidance, and

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1 I'm asking that I be allowed to argue as much of it as
2 possible in an open session.

3 MJ [COL POHL]: Okay. On that issue -- because the goal
4 posts have changed, on that issue, Trial Counsel, you have
5 notice of the 505(g) and we did the 505(h) hearing, so you
6 know what information we are talking about. Have you had an
7 opportunity to review that information in light of the new
8 classification guidance to see whether or not some or all can
9 be discussed in an open session?

10 MDTC [MR. TRIVETT]: Yes, sir. I think Ms. Bormann may be
11 correct, but I would want to see the exact notice and the
12 exact line, but it may be that that can be argued in open
13 session at this point based on our protective order.

14 MJ [COL POHL]: Well, what you need to do then is review
15 the classified ----

16 MDTC [MR. TRIVETT]: Yes, sir.

17 MJ [COL POHL]: ---- both, the 505(h) hearing, which would
18 tell us what we are talking about, and bounce it against the
19 classification guidance. And once that task is completed we
20 will see whether to go forward.

21 As I recall, the reason why we didn't get to it last
22 time was because the government hadn't had an opportunity to
23 argue and said they wanted to argue and that's why we stopped.

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1 Memories may be different. Okay. But be all that as it may,
2 let's see where it is. And if it needs to go, it's an old
3 issue, but it's -- perhaps we can resolve it.

4 LDC [MS. BORMANN]: Assuming I can get a declassification
5 ruling before the next hearing, we can do the 505(h) first
6 thing, and I can argue it shortly thereafter. But right now
7 as it stands, I don't have any new guidance on it, and the
8 government has filed information which seems to indicate that
9 that will be forthcoming by April, so that's where we are.

10 MJ [COL POHL]: I'm sorry, what's being forthcoming by
11 April?

12 LDC [MS. BORMANN]: The declassification of some of the
13 material involved it.

14 MJ [COL POHL]: Is it useful to piecemeal this,
15 Mr. Trivett?

16 MDTC [MR. TRIVETT]: I think so. I think I can get that
17 answer within a few minutes of leaving the court. It's just a
18 matter of I need to know exactly what is being said, and then
19 we will apply the guidance and provide guidance to defense
20 counsel.

21 LDC [MS. BORMANN]: They were provided a document, Judge.
22 We already had the 505(h) on this.

23 MJ [COL POHL]: I know we have. That's why I am

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1 saying ----

2 LDC [MS. BORMANN]: They have it. They have a document
3 and we argued about what was relevant and you ruled. And so,
4 you know, if they need time, I understand that. I mean, I'm a
5 little surprised too that we are here given the fact that the
6 government just told you through Mr. Trivett that they have no
7 problem with continuing matters until 292 has been resolved
8 for Mr. Binalshibh, and then General Martins gets up and we
9 are back to square one again. Frankly, I understand the
10 purpose for it, there is media here, but are we going forward
11 and ignoring Mr. Binalshibh's issue or are we going to resolve
12 Mr. Binalshibh's issue and then move forward in an orderly
13 fashion? I don't know the answer to that.

14 MJ [COL POHL]: I understand that. We will await further
15 developments on 008. Again -- I got it. Okay. Thank you.

16 LDC [MS. BORMANN]: If you want to know what we believe
17 you can make a decision on without oral argument and without
18 participation of the other defense counsel implicated in this
19 case, I can give you a list of that.

20 MJ [COL POHL]: Sure.

21 LDC [MS. BORMANN]: We filed ex parte requests for funding
22 of a variety of consultants and experts ----

23 MJ [COL POHL]: Okay. All ex parte things I'm assuming

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1 there is no oral argument on.

2 LDC [MS. BORMANN]: Well, I just want to put it on the
3 record. It would be AE 056, the last two filings; AE 337,
4 AE 309, AE 326, and AE 327.

5 MJ [COL POHL]: What's the numbers again, please?

6 LDC [MS. BORMANN]: Sure. AE 056. It's the last two
7 filings, and I don't have the numbers in front of me.

8 MJ [COL POHL]: That's fine.

9 LDC [MS. BORMANN]: I'm old, so my memory -- you will have
10 to forgive me if I get these wrong. I am relying on memory
11 here. AE 337, AE 309, AE 326, and AE 327.

12 MJ [COL POHL]: Okay.

13 LDC [MS. BORMANN]: If the commission has concerns or
14 questions, we stand by ready to answer those at any point, but
15 these are resources we are in desperate need of. So I think
16 those we can clear off the docket before the next set of
17 hearings fairly expeditiously with decisions on those five
18 things.

19 MJ [COL POHL]: Okay.

20 LDC [MS. BORMANN]: I don't know if you want to hear on
21 the concept of staying here. General Martins -- I met with
22 General Martins after we broke for lunch and asked him what he
23 thought the expedited court schedule should be, and he told me

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1 that he thought that the defense could sort of put together --

2 I guess cobble together a response to their AE 350C ----

3 MJ [COL POHL]: Ms. Bormann, can I ask you a question?

4 LDC [MS. BORMANN]: Sure.

5 MJ [COL POHL]: Since Mr. Trivett did not mention that, I
6 was assuming that that's no longer under discussion.

7 LDC [MS. BORMANN]: Okay. As long as it's not under ----

8 MJ [COL POHL]: If I am wrong, let me know ----

9 LDC [MS. BORMANN]: Okay.

10 MJ [COL POHL]: ---- but I sense they talked it over and
11 decided it wouldn't work.

12 LDC [MS. BORMANN]: Then I'm zipping it and sitting down.
13 Thank you.

14 MJ [COL POHL]: Mr. Ruiz, you are back.

15 LDC [MR. RUIZ]: Judge, since you are touching upon 008,
16 there is one point I wanted to bring on 008 and bring it to
17 your attention. On 13 January we filed 008-11, which is an
18 (MFL)(MAH) memorandum for leave to file a supplement. You
19 have not yet ruled on that with respect to 008, so we ask
20 you ----

21 MJ [COL POHL]: What's the number again, please?

22 LDC [MR. RUIZ]: It is 008-11 (MFL)(MAH).

23 MJ [COL POHL]: And the date?

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1 LDC [MR. RUIZ]: It was filed on January 13.

2 MJ [COL POHL]: '15?

3 LDC [MR. RUIZ]: 13.

4 MJ [COL POHL]: No, year, '15.

5 LDC [MR. RUIZ]: I understand.

6 MJ [COL POHL]: This motion could have been around for a
7 while.

8 LDC [MR. RUIZ]: No, Judge, I am not going to go back to
9 the arraignment.

10 MJ [COL POHL]: Let's not.

11 LDC [MR. RUIZ]: I just wanted to bring it to your
12 attention.

13 MJ [COL POHL]: Mr. Harrington?

14 LDC [MR. HARRINGTON]: Judge, as we all know, nothing is
15 the same in this case as in many other cases, but we are in
16 this situation now which, as you pointed out before, the
17 length of time and the difficulty of getting 292 resolved and
18 this conflict issue resolved -- and I listened this morning to
19 both the SRT and the trial counsel make references to the fact
20 that we are still filing motions and filing responses and
21 doing things to represent Mr. Binalshibh, and it seemed like
22 there was some implication in it that we were not doing
23 something that was right because we have this conflict issue.

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1 My position on it is until a conflict is found by the
2 court, I'm not conflicted. Now, it may be you will find a
3 conflict that's not waived and it existed while all this work
4 was going on and maybe something remedial has to be done to
5 that, I don't know. I have never been in this kind of a
6 situation before. I suspect you probably haven't either.

7 But anyway, the point of it is, is as was mentioned
8 earlier, are we going to resolve the conflict issue and then
9 move on or are we not? And in the hybrid position that I am
10 in right now, we are going to continue to work on the case, we
11 are going to, for example, respond to 350C, which relates
12 directly to my team and to me, but I think that there is risk
13 to the court and risk to everyone in going ahead with any
14 motions until this is resolved, whether Mr. Binalshibh is part
15 of it or not.

16 So my position is for Mr. Binalshibh that we do not
17 believe the court should go ahead with any further arguments
18 until we have addressed these other issues.

19 MJ [COL POHL]: Okay. Mr. Ruiz, let me ask you a question
20 I meant to ask you earlier. And I know the other defense
21 counsel want to be heard, and you will be allowed to be heard,
22 but I just want to address this issue right now.

23 Assuming these seven are specific to you and your

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1 team and do not in any way implicate the other four -- and I
2 am just saying this as an assumption, do you believe the --
3 and you are not part of 292, does the 350 litigation preclude
4 you from going forward on your argument on these fully briefed
5 issues?

6 LDC [MR. RUIZ]: Based on the information I have right
7 now, I do not think so.

8 MJ [COL POHL]: Okay. Thank you.

9 LDC [MR. RUIZ]: However -- there is always a however and
10 I apologize for that.

11 MJ [COL POHL]: That's fine.

12 LDC [MR. RUIZ]: There is an issue I am not allowed,
13 apparently based on my latest guidance, to discuss with you
14 about how we are implicated by that issue regarding the former
15 translator for the Binalshibh team. There is additional
16 information that I could provide to the court and would like
17 to as to how it impacts our team, but as of this morning when
18 I spoke to Mr. Trivett, he indicated that that information
19 remains classified. The resolution of that information as
20 well as additional questions is something I would have to tell
21 you so that you could factor it in and see if you think it
22 makes a difference. It might.

23 MJ [COL POHL]: Well, the initial inquiry is whether ----

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1 LDC [MR. RUIZ]: I just can't tell you what it is.

2 MJ [COL POHL]: No, I understand that. And there are ways
3 we can go down that road if we need to. But my question just
4 directed to you is that, does your current state of how 350
5 implicates you and your team somehow preclude you from arguing
6 these seven motions?

7 LDC [MR. RUIZ]: I've been prepared to argue those seven
8 motions prior to 350 becoming an issue.

9 MJ [COL POHL]: Okay.

10 LDC [MR. RUIZ]: And that's the only thing that's changed.
11 So it doesn't preclude me from arguing them. I can argue
12 those motions.

13 MJ [COL POHL]: Okay.

14 LDC [MR. RUIZ]: But I am concerned about what I don't
15 know. Again, Mr. Trivett got up here and said, "I don't know
16 what I don't know." So what I would ask the commission is
17 that if information comes available later, that I am allowed
18 to, if necessary, argue those points if they relate to some
19 issues in some way the commission would liberally grant leave
20 to amend that and reargue those motions.

21 MJ [COL POHL]: Just like the rule of supplements, if
22 additional facts come in on even a previously decided motion,
23 counsel can always request to reconsider or, depending on

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1 where it is in the briefing schedule, to supplement previously
2 filed things, so thank you.

3 Mr. Connell, you were standing.

4 LDC [MR. CONNELL]: Here are my comments. The first is
5 looking at the list of seven motions, I have comments on two
6 of them.

7 The first one is that 214A and AE 230 are essentially
8 the equivalent of each other. AE 214A is Mr. Hawsawi's motion
9 to compel correspondence between the Kingdom of Saudi Arabia
10 and the United States and 230 is the same thing for
11 Mr. al Baluchi with respect to Pakistan and the United States.
12 Those two are essentially equivalent to each other and I
13 suggest that if we do one of them, we do both of them.

14 My second comment is Mr. al Hawsawi's 303, which is
15 his motion regarding conditions of confinement is, in fact, a
16 huge undertaking. There are multiple motions to compel
17 discovery on the docket that have been filed regarding motions
18 to compel information about, in various ways, the conditions
19 under which the defendants live, and we declined joinder to
20 303 not because we didn't agree with the arguments made by
21 Mr. Hawsawi, but because we don't think it's right and that
22 there is an awful lot of discovery still to be provided
23 regarding conditions of confinement, so that's my comment on

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1 303. It doesn't really make a lot of sense to do such a huge
2 issue more than once.

3 What my suggestion that we do is that we take a
4 deposition of the former CIA linguist utilized by
5 Mr. Binalshibh's team. I can't state the typical reasons why
6 one would do this because they are classified, but it is
7 definitely true that due to exceptional circumstances of the
8 case, it's in the interest of justice that the testimony of a
9 prospective witness be taken and preserved for use in a
10 military commission. I won't say anything further for
11 classification concerns.

12 My last comment is if the military commission is
13 entertaining counsel identifying what we think the most
14 pressing of the ex parte considerations are, if I could
15 suggest to the military commission 339, which I think is the
16 most pressing of our ex parte requests, and 262, which while
17 not the most pressing, has been around for quite a while.

18 MJ [COL POHL]: Okay. Thank you.

19 LDC [MR. CONNELL]: Thank you.

20 MJ [COL POHL]: Mr. Nevin?

21 LDC [MR. NEVIN]: Your Honor, could I inquire or could the
22 military commission inquire of trial counsel whether they
23 communicated with the Special Review Team about any matter,

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1 and if so what they learned?

2 MJ [COL POHL]: Trial Counsel?

3 CP [BG MARTINS]: Sir, we did have an administrative
4 discussion to discuss what we could discuss in accordance with
5 the protocol that meets best practices and don't believe this
6 is an appropriate way to divulge this to the defense. If they
7 can cite some authority, they should do so in a motion.

8 MJ [COL POHL]: You are not relying on any communication
9 from the SRT on any position you are taking today ----

10 CP [BG MARTINS]: Correct.

11 MJ [COL POHL]: ---- after lunch?

12 CP [BG MARTINS]: Correct.

13 MJ [COL POHL]: Thank you. Anything else, Mr. Nevin?

14 Okay. Here is what we are going to do. Mr. Connell,
15 what was the companion motion that you had with, I believe it
16 was 3 -- excuse me ----

17 LDC [MR. CONNELL]: Sir, the companions are 214A and 230.

18 MJ [COL POHL]: 214A is yours?

19 LDC [MR. CONNELL]: No, sir, 214A is Mr. al Hawsawi's and
20 230 is ours.

21 MJ [COL POHL]: Okay. I'm going to give, defense, you an
22 opportunity to review these motions to see if any of you have
23 a dog in any of these fights, and if necessary we will go from

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1 there. But tomorrow at 0900 we will address the six Hawsawi
2 motions, not 303 and 230A from Mr. al Baluchi's team.

3 LDC [MR. RUIZ]: Judge, may I be heard?

4 MJ [COL POHL]: Sure.

5 LDC [MR. RUIZ]: Judge, we would ask the commission to add
6 303 to the list of motions to be heard. As Mr. Connell
7 properly indicated, I filed that motion on the conditions of
8 confinement and the unlawfulness of those conditions of
9 confinement some time ago. Now, my colleagues each
10 independently unjoined that motion. They made that decision
11 for whatever purposes they had and proper reasons. However,
12 as it stands right now, 303 is Mr. Hawsawi's motion, and it
13 has been actually unjoined on the record by each of counsel,
14 including Mr. Connell. We are concerned about the conditions
15 of confinement. We are concerned about the lawfulness of
16 those conditions, is the reason we filed it when we did. And
17 if we are going to prioritize these motions, I would suggest
18 to the court that this is one that must be on there because of
19 the importance.

20 MJ [COL POHL]: Let me do this, Mr. Ruiz. Let me review
21 it and then we will decide whether or not we are going to get
22 to it, okay? Thank you. Okay? And that's what we will do
23 tomorrow.

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