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1 [The R.M.C. 803 session was called to order at 1037,
2 22 October 2015.]

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

5 Mr. Harrington, what is your defense team's position
6 on the MOU, please?

7 LDC [MR. HARRINGTON]: Judge, at this time we are going to
8 sign the MOUs and file reservations to it.

9 MJ [COL POHL]: Do you intend to file the other piece of
10 paper that ----

11 LDC [MR. HARRINGTON]: Yes.

12 MJ [COL POHL]: Okay. And I understand that there is some
13 issue about printing the MOU itself?

14 LDC [MR. HARRINGTON]: Right.

15 MJ [COL POHL]: So that issue now is resolved.

16 LDC [MR. HARRINGTON]: Correct.

17 MJ [COL POHL]: Trial Counsel, how long will it take to
18 read on Mr. Harrington's team for the program?

19 CP [BG MARTINS]: Your Honor, we are setting up that
20 read-on right now, and we have -- we conferred with Mr. Ruiz's
21 team. We are seeking to ensure that the folks that he
22 believes he needs in this today are read on too.

23 MJ [COL POHL]: So once the read-on is done, then the next

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1 issue would be to schedule the 505(h) hearing?

2 CP [BG MARTINS]: Yes, Your Honor.

3 MJ [COL POHL]: Okay.

4 CP [BG MARTINS]: I think we could ----

5 MJ [COL POHL]: We are doing it today. I'm not thinking
6 of tomorrow. We can do -- I am thinking of an hourly time.

7 CP [BG MARTINS]: Aim for 1300, perhaps?

8 MJ [COL POHL]: Okay. Here is the way -- here is going to
9 be the way ahead. The detainees will be returned to the camp
10 or left in the holding cell, that's a decision that seems to
11 me is -- we will set the 505(h) hearing for 1330 with the
12 understanding that, if necessary, we will follow that up today
13 with the R.M.C. 806 closed session, okay? I understand there
14 are rulings that have got to be made. And then we will pick
15 up tomorrow.

16 So what I am saying is the detainees' presence will
17 not be required until tomorrow, and I will go over that
18 schedule in a second.

19 Mr. Ruiz?

20 LDC [MR. RUIZ]: Judge, as always, I just want to make
21 sure my position is clear. We are conferring with government
22 counsel on having our DS0 read on; at a minimum we think he is
23 necessary. However, our position is still that every defense

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1 team member on Mr. al Hawsawi's team requires that. We are
2 not working that angle now, only the DSO, but that's not to
3 say that we are taking the position that that's what's
4 required.

5 MJ [COL POHL]: Okay. Got it. Got it. I got it. It's
6 all -- for the defense teams that are not being read on, if
7 you have an objection to that procedure, it's preserved and we
8 will litigate it at the appropriate time.

9 Mr. Nevin.

10 LDC [MR. NEVIN]: Your Honor, may Mr. Mohammad remain here
11 with us until 1300 or until ----

12 MJ [COL POHL]: No.

13 LDC [MR. NEVIN]: Did you say 1330?

14 MJ [COL POHL]: I said we are going to go at 1330. The
15 problem is that to conduct the hearing, the place has got to
16 be cleared out.

17 LDC [MR. NEVIN]: I understand.

18 MJ [COL POHL]: And we are going to do that at 1330. The
19 detainees, at a minimum, have to be out of the courtroom not
20 later than 1230.

21 LDC [MR. NEVIN]: 1230. Okay.

22 MJ [COL POHL]: Okay. If they want to keep them in the
23 trailers to pray and then go back, that's up to them.

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1 LDC [MR. NEVIN]: We can remain here until 1230, then?

2 MJ [COL POHL]: 1230.

3 Ms. Bormann.

4 LDC [MS. BORMANN]: Just briefly, before we start the 505
5 hearing, I assume General Baker will be read on and then we
6 can provide him the document I attempted to discuss with him
7 yesterday, then I need time to talk with General Baker before
8 we start the 505 hearing because it affects our position going
9 forward.

10 MJ [COL POHL]: We start the 505 hearing at 1330. If that
11 issue needs to be resolved, and it can't be resolved before
12 then, we will get to it, but since we are going to have an
13 opportunity to read on Mr. Harrington's team, I suspect
14 General Baker will have time to do it. But I am not delaying
15 this thing incessantly on what I consider -- we just need to
16 move it along.

17 LDC [MS. BORMANN]: Sure. I just want to let you know I
18 am going to try to make that happen.

19 MJ [COL POHL]: Just so everybody understands the way
20 ahead tomorrow, assuming -- well, not assuming. The first
21 issue will be 380, okay, and the next issue after that, with
22 the abundance of optimism that I have, we will switch up and
23 pick up 292, so notify the SRT. Then we will go back with

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1 with the regular prosecution team, since 013 is resolved. We
2 will then -- I believe 350 was next on the agenda, and then
3 254. Just kind of the way ahead.

4 Did I miss something, Mr. Trivett? You are nodding
5 your head.

6 MDTC [MR. TRIVETT]: I believe 152 was next, sir.

7 MJ [COL POHL]: Yes, 152.

8 MDTC [MR. TRIVETT]: Can we get a quick point of
9 clarification, sir? The 505(h) is specific only to 380 and
10 not other issues as well, correct?

11 MJ [COL POHL]: Yes. I know there are other motions, but
12 we are talking about 380 and 380 only this afternoon, okay?
13 So that will be the way ahead and then -- now tomorrow,
14 Ms. Bormann, because the issue deals with your client's
15 specific issues, he has to be here tomorrow. If he chooses
16 not to be here tomorrow, then I am going to consider that a
17 current -- the current status is he does not wish to raise the
18 issue at this time and we are going to go forward as we have
19 been with you as his counsel. If he is here tomorrow, we can
20 discuss the pro se issues with him.

21 And that goes for all the other accused, obviously.
22 It's their choice whether they wish to be here tomorrow or
23 not. But if they are not here tomorrow, particularly

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1 Mr. Bin'Attash, then we will proceed as if regular course of
2 business with current counsel representing the interests of
3 their client.

4 Any questions about the way ahead?

5 LDC [MS. BORMANN]: No, Judge, on that issue, but
6 Mr. Bin'Attash -- so tomorrow is a holy day, and
7 Mr. Bin'Attash is asking whether or not you would address his
8 issue on Monday, and we could go ahead on 292 and then sort of
9 take things out of order.

10 MJ [COL POHL]: If he wishes -- okay. First of all, just
11 to review the bidding, what I have before me on 380 is a
12 request to advise an accused of his pro se rights, not a
13 request from the accused to go pro se. So if Mr. Bin'Attash
14 wishes to raise -- not raise that issue tomorrow and do it on
15 Monday, he absolutely can. Okay?

16 LDC [MS. BORMANN]: Thank you. That's clear. Thank you.

17 MJ [COL POHL]: Okay. The commission is in recess until
18 the 1330 505(h) hearing.

19 [The R.M.C. 803 session recessed at 1045, 22 October 2015.]

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