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1 [The R.M.C. 803 session was called to order at 1002, 2 June
2 2016.]

3 MJ [COL POHL]: Commission is called to order.

4 Trial Counsel, any changes from when we last
5 recessed?

6 MTC [MR. TRIVETT]: Good morning, Your Honor.

7 MJ [COL POHL]: Good morning.

8 MTC [MR. TRIVETT]: Major Christopher Dykstra is not in
9 for the morning session. And just to announce FBI personnel
10 present in the courtroom: Patrick O'Malley, James Fitzgerald,
11 and Mr. Donald Fuhr.

12 MJ [COL POHL]: Defense, any changes in your teams?
13 Apparently not.

14 The first order of business is to call a witness.

15 Mr. Harrington, what's the name of this witness, just
16 so I can try to pronounce it?

17 LDC [MR. HARRINGTON]: Judge, it's Gouled Hassan Dourad,
18 but they call him Gouled, so I'm going to refer to him as
19 Mr. Gouled.

20 MJ [COL POHL]: Gouled.

21 LDC [MR. HARRINGTON]: Gouled.

22 MJ [COL POHL]: Okay. Are we ready for the witness?

23 LDC [MR. HARRINGTON]: With a G, G-U.

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1 MJ [COL POHL]: Gouled. Got it. Ready for the witness?

2 LDC [MR. HARRINGTON]: Yes.

3 MJ [COL POHL]: Please call Mr. Gouled.

4 LDC [MR. HARRINGTON]: Judge, just one -- I'd like to put
5 something on the record, that we come in here many times
6 trying to resolve problems for our clients, and I'd just like
7 you to know that yesterday the major, the SJA, assistant
8 SJA who testifies regarding the waiver of presence, was really
9 extraordinarily helpful to our team in coordinating this. I
10 appreciate that.

11 MJ [COL POHL]: No. I appreciate you putting that on the
12 record.

13 MTC [MR. TRIVETT]: Sir, before the testimony begins, just
14 as an administrative note, the government would like to remind
15 the parties of the 1 December 2015 guidance that was provided
16 on the classification issues surrounding potential testimony.

17 MJ [COL POHL]: Okay. Mr. Gouled, could you stand there
18 for a second, please, and turn your attention to Mr. Trivett.
19 **GOULED HASSAN DOURAD, civilian, was called as a witness for**
20 **the defense, was sworn, and testified as follows:**

21 MJ [COL POHL]: Please be seated. Mr. Gouled, I
22 understand that you speak some English.

23 WIT: Whenever I don't understand, I will tell the -- to

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1 translate.

2 MJ [COL POHL]: Okay. One of the problems is going to be
3 the translators are going to translate English into Arabic,
4 and then if you -- if you go into Arabic and back to English,
5 back and forth, it's going to be very difficult for them. So
6 what I'm saying is try to speak in English, but if it turns
7 out that it becomes too difficult, we'll just go totally to
8 Arabic.

9 WIT: That's what I mean. I will stay in English, but
10 whenever I need any word, I will tell that time.

11 MJ [COL POHL]: Okay. Fine. Mr. Harrington.

12 **DIRECT EXAMINATION**

13 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

14 Q. Mr. Gouled, could you move up toward the microphone.
15 You can lower it down, too.

16 Would you tell the court what your full name is,
17 please.

18 A. My full name is Gouled Hassan Dourad.

19 Q. And I'm going to refer to you as Mr. Gouled; is that
20 all right?

21 A. Yes. That's okay.

22 Q. All right. How old are you?

23 A. I'm 43.

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1 Q. And when were you born?

2 A. I was in 1973.

3 Q. Do you remember the date?

4 A. I think it was in April. April 4, something like
5 that.

6 Q. And where were you born?

7 A. Mogadishu, Somalia.

8 Q. What is your citizenship?

9 A. I'm Somali.

10 Q. Where do you live right now?

11 A. Guantanamo.

12 Q. Is there a particular place in Guantanamo where you
13 live?

14 A. Yeah. Camp VII.

15 Q. And what is Camp VII? Is it a jail?

16 A. The jail, yeah.

17 Q. Okay.

18 A. It's detention. They call it Camp VII.

19 Q. How long have you been at Camp VII?

20 A. Since 2006.

21 Q. Before 2006, were you in somebody else's custody, or
22 were you free?

23 A. No, I was in somebody else -- somewhere in the black

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1 site, they call.

2 Q. And how long were you there?

3 A. I was with them like two-and-a-half years.

4 Q. So from that time until now, you've been in custody;
5 is that right?

6 A. Yes.

7 Q. And when you walked in up to the place you're sitting
8 now, you did not have any handcuffs or shackles on, correct?

9 A. True. Yes.

10 Q. Is that the first time since you've been in custody
11 that you've been able to walk like that?

12 A. Yes.

13 Q. And are there other persons that are in Camp VII with
14 you?

15 A. Now?

16 Q. Yes.

17 A. No. I'm the only one here.

18 Q. No. You're the only one here.

19 In Camp VII, are there other men that live with you
20 there?

21 A. Yeah. Oh. All of the guys there living in Camp VII.

22 Q. When you talk about the guys, are you talking about
23 the five men here?

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1 A. 9/11 five guys. Brothers, my brothers over there.

2 Q. Okay. Do you know all five of those?

3 A. Yeah. I've known them here in camp, not before.

4 Q. You met them in the camp; is that right?

5 A. Yes.

6 Q. Now, within Camp VII, are there different sections in
7 Camp VII?

8 A. Yes. We have two sections. The first section they
9 call Alpha and the second section they call Bravo.

10 Q. Where do you live now?

11 A. Now I'm in Bravo.

12 MJ [COL POHL]: Just a second, Mr. Harrington.

13 Mr. Harrington, we're getting close to a line
14 here ----

15 LDC [MR. HARRINGTON]: That's the end of the line, Judge.

16 MJ [COL POHL]: ---- of the details of the exact camp. Go
17 ahead.

18 LDC [MR. HARRINGTON]: Okay.

19 Questions by the Learned Defense Counsel [MR. HARRINGTON]:

20 Q. And is -- Ramzi Binalshibh, does he live in Bravo
21 tier with you?

22 A. Currently, yes.

23 Q. And how long has he been there?

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1 A. He came after Ramadan, the last Ramadan. He has been
2 there now almost one year.

3 Q. And were you in Bravo tier before that?

4 A. Yeah.

5 Q. Okay. Did you -- did you know Mr. Binalshibh before
6 he came a year ago?

7 A. No. Before, yes, I have been with him in Alpha.

8 Q. Okay.

9 A. That's what I know. But if you mean that before the
10 custody, no.

11 Q. Okay. So you've known him for some period of time
12 since both of you have been in the camp; is that right?

13 A. Yes.

14 Q. And for the past year or so you've been together in
15 the same camp?

16 A. In the same camp.

17 Q. In the same tier?

18 A. In the same tier.

19 [The security classification button was pushed in the
20 courtroom which caused the video feed to terminate at 1010, 2
21 June 2016.]

22 [The Military Commission resumed at 1012, 2 June 2016.]

23 MJ [COL POHL]: Mr. Harrington.

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1 Questions by the Learned Defense Counsel [MR. HARRINGTON]:

2 Q. Mr. Gouled, when you and Mr. Binalshibh are both
3 there, are you able to talk to him?

4 A. The first period, no. But after that, when they --
5 yeah, then they start to open the pinholes and in that side we
6 started to talk to them, each other.

7 Q. All right. There's a way that you can talk to each
8 other ----

9 A. Yes.

10 Q. -- correct?

11 Okay. And do you see Mr. Binalshibh in the courtroom
12 today?

13 A. Yeah.

14 Q. Okay. Can you tell -- can you identify him? Tell
15 the judge.

16 A. He's over there. That guy with the, what you call
17 it -- yeah. He's over there.

18 MJ [COL POHL]: Let the record reflect that Mr. Gouled has
19 identified Mr. Binalshibh. Go ahead.

20 A. He's raising his hand now.

21 MJ [COL POHL]: Got it. Thank you.

22 Q. By the way, Mr. Gouled, do you have a lawyer?

23 A. No.

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1 Q. Have you ever had a lawyer since you've been in
2 custody?

3 A. No.

4 Q. Are there any charges pending against you?

5 A. No. They -- they didn't charge nothing for me, I'm
6 staying, only staying in the camp. They didn't charge
7 anything for me against. So I'm just waiting charge or
8 whatever it is.

9 Q. Since the whole time that you've been in custody for
10 ten years or so, no charges, correct?

11 A. No charge. They don't have nothing to charge me. I
12 did nothing.

13 Q. Have you ever testified in a court before?

14 A. The first time.

15 Q. This is the first time?

16 A. Yes.

17 Q. And why did you agree to testify today?

18 A. Because I want to tell what I'm -- Binalshibh told me
19 that he's got a problem. And also at the same time, I have
20 the same problem. So for me it's a chance even to tell the
21 court that I have the same problem that he got. So this is
22 the first chance to express my problem. That is why. There's
23 two things: Helping brother, and same thing that I got a

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1 problem. So there's nowhere else that I can tell them. So
2 the people outside here, we getting -- I got the same
3 problems, so that's the chance for me to testify at the same
4 time and tell my problem.

5 Q. And are you afraid that somebody will do something to
6 you if you testify?

7 A. Anything can happen, but for me, I don't know, I
8 don't know what's going to happen to me, but I don't -- that
9 doesn't bother me for afraid. I'm not afraid for anyone here.
10 So I came to testify. My choice. No one forced me. And what
11 is going to happen, we will see.

12 Q. Do you know what complaints we're here about today in
13 court for Ramzi?

14 A. Yeah. I know.

15 Q. Okay. What do you understand the complaints to be?

16 A. The whole complaints that he -- about the vibration,
17 smelling, noises. All of the things that he tells you as to
18 when -- is the same thing that I know and have I have been
19 through it from now, even now. So that's what I know. What
20 he told me and what I know by personally, I have experience
21 for that.

22 Q. All right. And what have you experienced?

23 A. My experience that I've been through this problem,

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1 harassing noises, the smelling, and the vibrations. All of
2 the things that -- the same thing that told in the court
3 Binalshibh I have been through for a long time. So that's the
4 way that I -- makes me came here to testify that we have
5 mental torturing in the Camp VII.

6 Before, when we were in other site, black site, there
7 was physical.

8 TC [MR. RYAN]: Objection, Your Honor. Beyond the scope.

9 LDC [MR. HARRINGTON]: Don't talk about that part.

10 MJ [COL POHL]: Sustained.

11 WIT: Okay.

12 MJ [COL POHL]: Mr. Gouled, we want to focus on the
13 current problems in the current camp.

14 Mr. Harrington, please ask the question. I'll give
15 you some leeway to lead.

16 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

17 Q. Now, you said you have heard noises or sounds; is
18 that right?

19 A. Yes.

20 Q. What kind of noises and sounds?

21 A. The noises is different, sometimes that someone
22 hearing hammer on the roof, high-pitched noises, and the
23 smells are stinky smell, the chemicals, everything. My cell,

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1 the same thing that -- so that's what we got, the same thing
2 that they do in Binalshibh.

3 Q. How long has that been going on?

4 A. For me it's been going on now six months -- six
5 years, since the last 2009 up to today. Going continuously.
6 It didn't stop even one day. So six years.

7 Q. Did you complain about that?

8 A. I did. I did it, but no one hear. I did a lot of
9 time.

10 Q. When's the last time that that happened?

11 A. Before I came here.

12 Q. When? Today?

13 A. Today. Now. When I came -- before I came here, was
14 the same problem that I got.

15 Q. What happened today?

16 A. It happened for me -- now even they start to make
17 cold for the cells, feeling cold, you know, and the noises
18 that I told you, smell, the vibrations, everything we got --
19 the same time -- they don't -- they don't want to stop and
20 it's been continuous. If I go back there, I'll go see the
21 same thing.

22 Q. Does it happen every day?

23 A. Every day, every minute, every hour, every month,

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1 every year.

2 Q. When did you last complain?

3 A. For a long time now I didn't complain, because for
4 me, I don't have somebody to help me for this issue. At the
5 same time, I make complaint with the camp, and camp commander
6 before and like two, three years. When I said that, no one
7 come. My complaints would accept and they don't want to stop,
8 to point there's no way, and I stopped complaining.

9 I complained also ICRC, same thing that I got a
10 problem in the camp. So this issue is for a long time for me.
11 But the last time -- the last years, I didn't complain at all.

12 Q. Have -- when you have complained, at any time has
13 there been any improvement or anything done to correct the
14 problem?

15 A. Same thing. There's no improvement. But sometimes
16 getting worse. When I complained, they thought it was the
17 weak point, so they make it loud.

18 Q. What did you say, there's a weak one?

19 A. A weak point. Mean that they feel that -- the things
20 that you are complaining, it helps you, so that's why they
21 make you a lot more harassing than that. So they keep doing
22 the things.

23 Q. Is that why you stopped complaining?

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1 A. That makes me to stop complaining, because if you
2 don't get -- no one help you to stop the things. So the last
3 point, it means you don't have any choice. No one helps me.
4 That's why today makes me to come here to tell my problems.
5 Also, to tell problems that he got, Binalshibh.

6 Q. Anybody ever tell you why this was being done to you?

7 A. No, no. But I think it's kind of pressure. I don't
8 know what they do it for. I told you they don't accept -- I
9 know the point, but they don't accept. If I talked about the
10 things, maybe they will stop. If things -- things leading to
11 why I was on the other side.

12 Q. Okay. We're having trouble understanding you. Could
13 you explain that better?

14 A. This problem that I got, I mean, they pressure me
15 to -- when I was with them on the other sites, the black
16 sites, they asked me to help. And the other way means that
17 they asked, they asked me that if I can help with them, work
18 with them. So I refused that part time. So when I came, they
19 promised me they are going to make me -- my life difficult.
20 So that's what I mean, if you got that or not. If you
21 understand what I mean. I mean, while I was on the other
22 site, not in the Guantanamo, in the black site.

23 So this is the things that makes me only why they

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1 doing the things to me, to get pressure that they want -- at
2 one point they need me to help them or go back to Somalia to
3 help, work with them. That is the things only that I think.

4 TC [MR. RYAN]: Objection, Your Honor. Beyond the scope.

5 MJ [COL POHL]: Objection is overruled, but I think he has
6 completed his answer.

7 Mr. Harrington.

8 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

9 Q. Now, when you talk to Mr. Binalshibh, does he tell
10 you what things are happening to him, what noises or
11 vibrations or whatever?

12 A. Yeah.

13 Q. And how often is that?

14 A. Every day he got a problem. Every day.

15 Q. Where you are, are you able to hear the noises that
16 he complains about?

17 A. No.

18 Q. Are you able to feel the vibrations that he feels?

19 A. No.

20 Q. No. If you know, are any of the other detainees able
21 to hear the noises that you -- affect you?

22 A. No.

23 Q. Are they able to feel any vibrations that you feel?

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1 A. No.

2 Q. Are they able to smell what you smell?

3 A. No.

4 Q. So is each cell basically by itself?

5 A. That's -- yeah, yeah, yeah. That's each individual
6 cells, so the next cell can't feel what you feel. And that's
7 the way they want the mental problem that they torture you,
8 that you feel only the one -- this problem you feel only your
9 cell. So in the other case, your next brother can't feel.

10 Q. Now, when Mr. Binalshibh has told you what has
11 happened to him, do you believe him?

12 A. Of course, because I have -- I have the problem that
13 when he told me the things that he told me, yeah. I have been
14 through the things, the same thing that he tell me. So that's
15 why I'm -- what he telling me exact is what happened to me in
16 my cell. So it's not the things -- okay.

17 Q. Do you know who is doing these things to you?

18 A. I don't know, but of course it's only the -- I think
19 it's in the camp. In the camp. Who? I don't know who.

20 Q. And would your answer be the same for Mr. Binalshibh?
21 You don't know who is doing it to him either?

22 A. I don't know who is doing the things, but it's --
23 there's something coming in the camp; it's not something

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1 outside the camp.

2 TC [MR. RYAN]: Sorry, Judge, I missed that answer. Could
3 it be said again?

4 MJ [COL POHL]: I believe he said it was inside the camp
5 and not outside the camp.

6 WIT: Inside, not outside the camp.

7 MJ [COL POHL]: Okay.

8 Questions by the Learned Defense Counsel [MR. HARRINGTON]:

9 Q. Now, at Camp VII there are guards there; is that
10 right?

11 A. Uh-huh. Yes.

12 Q. All right. Have you ever seen other people who are
13 not guards there?

14 A. What do you mean exact?

15 Q. Somebody who doesn't have a guard uniform on?

16 A. Occasionally. We have them sometimes before, but is
17 not now.

18 Q. Have you ever seen one of those people go into
19 Binalshibh's cell?

20 A. Yes.

21 Q. When was that?

22 A. For a long time now, it's been two years.

23 Q. Two years? You said he's only there a year.

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1 A. Hmm?

2 Q. You said he was only there with you a year.

3 A. I mean when I was in Alpha, not in Bravo.

4 Q. Okay.

5 A. Okay. Sorry. In the Bravo, I didn't see no one go
6 in his cell except the guards. But what I mean, when I was on
7 the other side, the other block.

8 Q. Right. I don't know if I asked you this. How long
9 have you been in Bravo now?

10 A. Now only one year. I don't see no one go in his cell
11 in this period.

12 Q. My question is, how long have you been in Bravo now?

13 A. Now I have been in Bravo three years.

14 Q. Are you -- do you know any other detainees who have
15 experienced what you and Mr. Binalshibh have experienced?

16 A. Yes.

17 Q. Who is that?

18 A. Abu Zubaydah.

19 Q. All right. And what do you know about him?

20 A. He has the same problem, the noise, and he hears --
21 before when he came in -- when I came in the Bravo. So he got
22 the same problem, but now I don't know if he got the same
23 continuously, he got a problem or not, but he knows these

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1 things and the same thing that I know.

2 Q. Does Mr. Abu Zubaydah, does he have a special role or
3 position among the detainees?

4 A. Yeah. Among the brothers, in my side, he is the one
5 with the camp commander. He is the leader, you can call
6 coordinator or whatever you call.

7 Q. Coordinator, is that what you said?

8 A. Yeah. Coordinator.

9 Q. Does he talk to the camp commander for the brothers?

10 A. Yeah. He's the one who take care for whenever you
11 got a problem or an issue.

12 Q. Have you ever brought your complaints about the
13 noises, vibrations and smells ----

14 A. Yeah.

15 Q. ---- to him and asked him to talk about it?

16 A. He did a lot of time. He did a lot of time. But I
17 told you, they don't -- they said that Gouled, he feels
18 something no one feels. They make me think I'm the one who
19 mental problem.

20 Q. How do you know about Abu Zubaydah's problems?

21 A. What he told me.

22 Q. Is he on the same tier with you?

23 A. Yes.

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1 Q. And how long have you and he been together?

2 A. Since I've been in the tier. Because when I came in
3 the tier, he was before in the tier, in my tier, so we have
4 been together now more than two years -- many -- almost around
5 two years in the tier.

6 Q. And is his cell close to yours? Don't tell us the
7 number of the cell, but is he close to you?

8 A. No.

9 Q. No. Now, during the day, are there times when you
10 can leave your cells?

11 A. Yes.

12 Q. You can go to recreation, right?

13 A. Yes.

14 Q. And media room?

15 A. Media room.

16 Q. Do you ever go to those?

17 A. Yes.

18 Q. Okay. Do you get -- can you talk to other brothers
19 there when you're there?

20 A. Yeah. I can talk.

21 Q. And are you there sometimes with Abu Zubaydah?

22 A. Yes.

23 Q. Do you discuss these problems then?

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1 A. Yeah, we do.

2 Q. Is there anybody else that you know of who has had
3 these problems?

4 A. Yes.

5 Q. Who is that?

6 A. Brother Mohammad, he also got this problem.

7 Q. You mean Mr. Mohammad here, sitting here?

8 A. We don't call mister, we call brother. So I call my
9 brother, I call Brother Mohammad. He told me he got -- and I
10 hear myself because he was in the -- he hear the same noises.
11 Come on, Gouled, listen. So I hear myself when he got the
12 same noises. And even there's another detainee, I mean,
13 another brother, called Dawood, young guy. He's in tier two.
14 He got the same problem. Some of these things they did not do
15 continuously to them. Some for me, Binalshibh, and every day,
16 every minute, every hour. But some of the guys, no.

17 Q. When were the problems with Mr. Mohammad?

18 A. Since he came Bravo. Since he came to my side, he
19 say he got the same problem that -- I don't think it's
20 continuously, but I hear myself these problems. And Charlie,
21 when I go outside Charlie, I hear what he hears. It's not
22 what I'm -- he told me it's what I'm hearing and when I hear
23 what I told you.

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1 Q. And Charlie is a part of where you can go out and you
2 can get -- it has an outside ----

3 A. Yeah.

4 Q. ---- part of it, right?

5 A. In the cell, there's -- in the back side they call
6 Charlie.

7 Q. Okay. When was it that -- did you say that this
8 happened with Mr. Mohammad that you heard those sounds?

9 A. I mean, it's been like two months now before -- for
10 two months or for one month almost, something like that.

11 Q. And does he -- is he on Bravo tier with you now, too?

12 A. Yes.

13 Q. Okay. How long has he been there?

14 A. Not -- almost one year. One -- more than one year.

15 Q. There's a third man, you said Mr. Dawood.

16 A. Dawood, he is a Malaysian young guy, yes. His number
17 is 22. Number is 22. 22 they call Dawood.

18 Q. Yeah. Is he on Bravo tier with you?

19 A. Yes.

20 Q. And does he complain of the same thing?

21 A. Yeah. He did. He complain and he told me same
22 thing. And the month -- he hearing at night, the noises would
23 be louder than in the daytime. And he told me the daytime is

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1 not too high, but in the nighttime, he told me that he hear
2 this. And I told him, did you complain to them? He said, I
3 did sometimes. But this is the problem, whenever you
4 complain, they make you more. That's why that some of the
5 brothers, they don't want to complain a lot so it won't be
6 worse. So that's the policy for the camp. Whenever you
7 complain something, they make you worse.

8 Q. And do you know whether Ramzi complains a lot or a
9 little bit?

10 A. He complains and he sends letter to them every day
11 almost.

12 Q. Do you know Majid Khan?

13 A. Yeah. I know Majid Khan.

14 Q. Were you in custody with Majid Khan?

15 A. I was in the custody.

16 Q. When was that?

17 A. Before he leave, 2004, 2012, he was with us.

18 Q. Okay. When did he leave?

19 A. He leave 2012, I think, yeah.

20 Q. I'm sorry, what?

21 A. 2012 he leave from the camp to other place. I don't
22 know where.

23 Q. And before he left, did you talk to him about the

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1 conditions at the camp?

2 A. Yes. He was the next -- my next cell. He was my
3 neighbor who is next cell. And he told me that he's been
4 through this problem also.

5 TC [MR. RYAN]: Objection, Judge, hearsay.

6 MJ [COL POHL]: It's a motion. I'll overrule it.

7 Go ahead.

8 WIT: So he told me he got the problems, same problem,
9 this noises, everything.

10 **Questions by the Learned Defense Counsel [MR. HARRINGTON]:**

11 Q. All right.

12 A. And at that time it's the time they want to get him
13 to testify against -- or to help them. So I told them, this
14 is what they do. It's the same thing that I feel. I think
15 it's kind of pressure that they want at some point these guys,
16 they want to help them. So he told me that he couldn't -- he
17 can't be patient more than that. That's the last time that I
18 talked to him.

19 And then after that, he went and he left the camp,
20 and I don't know, he disappeared almost.

21 Q. When you said he was having trouble with this, are
22 you talking about the same kind of thing, noises?

23 A. Yes. Noises and problems in cell.

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1 Q. Now, you testified about the things that happened to
2 you, and those go right up until today, right? Correct?

3 A. Yes.

4 Q. Okay. And what you know from talking to Ramzi, does
5 that continue right until today also?

6 A. Yes.

7 Q. So for the past six months, has it been the same
8 thing, where he complains all the time that they're doing
9 these things to him?

10 A. Not past six months, it's for today even.

11 Q. Yeah. But I mean during the past six months, he's
12 complained, correct?

13 A. Yes, yes.

14 Q. Okay. Did you know there was an order from this
15 judge to tell the camp people not to do this?

16 A. I have seen. I have seen the order on the -- on the
17 door.

18 Q. And have you heard Ramzi yelling about the order?

19 A. Yeah. He -- every time he called them, the camp
20 commander, the watch commanders, he told them, you have to
21 follow the judge order. That's what he tell them in the cell,
22 follow the judge order. They respond, we are following the
23 judge order.

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1 Q. Now, when Ramzi complains, does he do it quietly or
2 loudly?

3 A. Sometimes quiet, sometimes he send to letters to
4 watch commander, camp commander, sometimes he becomes angry.
5 Normally he become angry with them and he yell at them, and
6 that's what happens. But almost -- most of the time, he tries
7 to be calm. He tries to make understand. "Don't disturb me.
8 You have to follow the judge order." So if it -- you don't --
9 if they don't stop, in that case, he becomes angry.

10 Q. All right. Where you are, you can hear him when he
11 yells?

12 A. Yeah. Yes, I hear.

13 Q. Okay.

14 A. Everyone hears.

15 Q. Can you hear him when he's talking in a regular
16 voice?

17 A. Yes.

18 Q. Your opening is close enough that you can hear that
19 conversation; is that right?

20 A. Yes.

21 Q. Okay.

22 LDC [MR. HARRINGTON]: That's all I have, Judge.

23 MJ [COL POHL]: Thank you.

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1 Trial Counsel.

2 What is your dog in this fight?

3 LDC [MR. NEVIN]: The dog in the fight for this purpose is
4 that the testimony of my -- statements of my client were
5 described by this witness.

6 MJ [COL POHL]: Yeah, but the issue before me is
7 Mr. Binalshibh's complaint about his particular treatment.

8 LDC [MR. NEVIN]: I agree. I understand. But there was
9 testimony by ----

10 MJ [COL POHL]: I heard it. I heard it. I was sitting
11 here.

12 LDC [MR. NEVIN]: Right. It seems to me that I have a
13 right on behalf of Mr. Mohammad to inquire about the remarks
14 attributed to him.

15 MJ [COL POHL]: For what purpose?

16 LDC [MR. NEVIN]: Because he's a party to these
17 proceedings ----

18 MJ [COL POHL]: Yeah, but the issue before me is -- but
19 the issue before me is how Mr. Binalshibh is being treated in
20 his cell.

21 LDC [MR. NEVIN]: I understand.

22 MJ [COL POHL]: This witness testified that he had heard
23 the same thing with regards to Mr. Mohammad, and Mr. Mohammad

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1 said X. So ----

2 LDC [MR. NEVIN]: Right. But -- in other words,
3 Mr. Mohammad's statements have been brought to the court, have
4 been admitted into evidence, and my interest is in clarifying
5 those remarks and cross-examining about those remarks.

6 MJ [COL POHL]: So you're ----

7 LDC [MR. NEVIN]: I'm not proposing that I should be ----

8 MJ [COL POHL]: Which side are you on this then?

9 LDC [MR. NEVIN]: I'm on Mr. Mohammad's side.

10 MJ [COL POHL]: Yeah, but Mr. Harrington, this is your
11 motion. It's your witnesses. Do you want to permit Mr. Nevin
12 to cross-examine your witness? I mean, it seems to me the
13 standing belongs to you as to whether or not this comes up,
14 because he could very well impact on your presentation -- I
15 mean be -- I just -- my inclination, this is only about you,
16 but Mr. Nevin is requesting permission to cross-examine him.
17 For what purpose, I don't know. But it may not be consistent
18 with your theory of the case, and he's your witness. Do you
19 object to Mr. Nevin examining this witness?

20 LDC [MR. HARRINGTON]: I do not object.

21 MJ [COL POHL]: Okay. Then, Mr. Ryan, let Mr. Nevin go.

22 Go ahead, Mr. Nevin.

23 Questions by the Learned Defense Counsel [MR. NEVIN]:

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1 Q. Mr. Gouled, I'm David Nevin. I'm one of the lawyers
2 for Mr. Mohammad. You and I have not met before, correct?

3 A. Uh-huh.

4 Q. Is that right?

5 A. Yeah.

6 Q. So I want to ask you a couple of questions about what
7 Mr. Mohammad said to you, okay? So I don't want you to go --
8 I'm not asking you to go into anything else other than what
9 Mr. Mohammad said to you. Okay?

10 A. Yes.

11 Q. Okay. So how many times did you have the
12 conversation with Mr. Mohammad about the conditions?

13 A. Several times.

14 Q. Okay. Did I understand you to say that you had these
15 conversations with him when you were in his -- or when you
16 were in your Charlie area?

17 A. Yes.

18 Q. Okay. And was he in his Charlie area as well?

19 A. He was in Charlie area as well.

20 Q. Okay. And you, too?

21 A. And me, too.

22 Q. Okay. And so is your cell next to his?

23 A. No.

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1 Q. Pardon me?

2 A. No.

3 Q. Okay.

4 A. But close.

5 Q. Okay.

6 A. Within one. One cell between me and Mr. -- Brother
7 Mohammad.

8 Q. And, again, remember, there's a problem with
9 identifying the numbers of the cells or anything like that,
10 so ----

11 A. I know.

12 Q. ---- don't say anything about that. But do I
13 understand you correctly that your cell is -- has one cell
14 that is between the two of you?

15 A. True.

16 Q. Okay. So you are both in your Charlie area, and you
17 are able to talk in the Charlie area?

18 A. Sure.

19 Q. And while you're in the Charlie area, Mr. Mohammad
20 says to you, these are the sounds that -- and the feelings
21 that I have experienced, right?

22 A. Yes.

23 Q. Okay. So could you tell us specifically what it is

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1 Mr. Mohammad said to you? Was it sounds, smells, vibrations,
2 what was it?

3 A. Not smells. Not smell. It was sound. Because I was
4 in the cell. He called me to listen to him, what he hearing.
5 So when I came out in my Charlie and I hear the noise, he --
6 someone like on the roof on the Charlie of someone hitting
7 hammer. That's why he -- he told me that, "Gouled, do you
8 hear what I'm hearing?" I told him yes. It's not something
9 that was so loud. He told me different things that I told you
10 that I'm hearing night and daytime also, but not continuously.
11 Sometimes it's not high, it's kind of low. But that time what
12 I hear was high. You know, I can hear it myself. I told you
13 that between me there's one cell, and the same time I hear
14 what he told me. That's what I -- okay, that's the occasion
15 that I came outside in Charlie and I want to hear what he
16 hearing. And then when it's not what he tell me, it's what
17 I'm hearing myself. So that's the issue.

18 Q. Okay. And you said that you had a conversation
19 about -- with him about this on more than one occasion?

20 A. Yes.

21 Q. And were you able to hear it on other occasions also?

22 A. No. That's the first time, occasion that I hear it
23 myself. He told me, but I didn't hear. So -- but that time

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1 when he told me, that's the first time I hear what he told me
2 before.

3 Q. Okay. Now, when you heard the sound, you said it
4 sounded like someone with -- striking something with a hammer?

5 A. With a hammer on the roof on the Charlie, yeah.

6 Q. Uh-huh.

7 A. So that's what it sounds.

8 Q. Okay.

9 LDC [MR. NEVIN]: Thank you, Mr. Gouled. Thank you, Your
10 Honor.

11 MJ [COL POHL]: Mr. Ryan.

12 **CROSS-EXAMINATION**

13 **Questions by the Trial Counsel [MR. RYAN]:**

14 Q. Sir, I'm going to speak to you and I'm going to ask
15 you many questions. It's very important that we understand
16 everything you say. I'm going to ask you to speak into the
17 microphone slowly and clearly. Do you understand me?

18 A. Uh-huh.

19 Q. Can you answer for me, please?

20 A. Yes.

21 Q. Thank you. We can't have you huh-uh or uh-uh. You
22 have to say ----

23 MJ [COL POHL]: Mr. Gouled, let me kind of explain this so

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1 you understand. I know you've never testified before. But
2 these people in front of me are going to take down every word
3 you say. So that means when somebody asks you a question,
4 you're going to have to say yes or no, not just nod your head
5 because they can't take down head nods. Do you understand?

6 WIT: I understand.

7 MJ [COL POHL]: So that's what Mr. Ryan is talking about.
8 So make sure that you answer the question verbally so the
9 court reporters can do their job.

10 WIT: Thank you.

11 MJ [COL POHL]: Go ahead, Mr. Ryan.

12 TC [MR. RYAN]: Thank you, sir.

13 Questions by the Trial Counsel [MR. RYAN]:

14 Q. Picking up on the last things you talked about, is it
15 also not true that Khalid Shaikh Mohammad often says that
16 Binalshibh is imagining all of these things?

17 A. No.

18 Q. You've never heard him say that?

19 A. No.

20 Q. Have you heard him say that to guards on occasion?

21 A. No.

22 Q. Not once?

23 A. No.

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1 Q. All right. Your name is Gouled. Is that your true
2 name, or is that a kunya?

3 A. No, it's true name.

4 Q. Do you have a kunya?

5 A. Yes, I have.

6 Q. What is your kunya?

7 A. You don't need my kunya.

8 Q. I'm sorry, sir?

9 A. You take my person, my real name.

10 Q. What's your kunya?

11 A. Hmm?

12 Q. What is your kunya?

13 A. My kunya is Ja'far.

14 Q. What is a kunya?

15 A. What is a kunya?

16 Q. What is it, sir?

17 A. Kunya, it means like a nickname.

18 Q. Is that your al Qaeda name?

19 A. I'm not going to answer.

20 LDC [MR. HARRINGTON]: Objection. Objection.

21 MJ [COL POHL]: What's the relevance of this?

22 TC [MR. RYAN]: It goes to bias, sir. I plan to spend a
23 lot of time on this man's bias. I'll tell you right now.

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1 MJ [COL POHL]: I'll give you some leeway, Mr. Ryan,
2 because you have a right to inquire on bias, but as I think
3 we've discussed earlier, we also understand the status of
4 these individuals. So go ahead.

5 Questions by the Trial Counsel [MR. RYAN]:

6 Q. Is it your jihadi name?

7 A. It's nickname.

8 LDC [MR. HARRINGTON]: Objection, Judge. I don't know
9 what that means.

10 TC [MR. RYAN]: Well, I'm sorry. I will clarify.

11 MJ [COL POHL]: Objection sustained.

12 Questions by the Trial Counsel [MR. RYAN]:

13 Q. Do you use a name, whether it's a nickname or a false
14 name, as a way that people didn't know your true identity?

15 A. No, in Arab -- in my culture, we have nicknames.

16 Q. Okay. You knew Binalshibh since 2006?

17 A. No.

18 Q. Okay. When did you meet him, sir?

19 A. I knew when they opened the pinholes, since 2009.

20 Q. So you've known him since 2009?

21 A. Yes.

22 Q. Is that correct?

23 A. Yes.

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1 Q. All right. Have you been on the same tier with him
2 since 2009?

3 A. Yes.

4 Q. All that time?

5 A. Yes.

6 Q. Has he ever been on a different tier than you?

7 A. No. In the same tier.

8 Q. Have you moved cells since you've been on the tier?

9 A. Yes.

10 Q. How many times have you moved your cell?

11 A. Only one time.

12 Q. One time?

13 A. Yes.

14 Q. Binalshibh has moved his cell since he has been on
15 the tier?

16 A. Yes.

17 Q. How many times?

18 [The security classification button was pushed in the
19 courtroom which caused the video feed to terminate at 1047, 2
20 June 2016.]

21 [The Military Commission resumed at 1049, 2 June 2016.]

22 MJ [COL POHL]: Mr. Ryan, you may proceed.

23 TC [MR. RYAN]: Thank you, sir.

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1 Questions by the Trial Counsel [MR. RYAN]:

2 Q. Sir, before I forget, you testified just a few
3 minutes ago that you can hear Binalshibh when he's speaking in
4 his normal voice from your cell when he's in his cell,
5 correct?

6 A. Yes.

7 Q. Okay. Now, the -- when is -- what was the first year
8 you remember feeling these things or hearing these things or
9 smelling these things?

10 A. It was 2009, last 2009.

11 Q. In 2009.

12 A. Yes.

13 Q. All right. You were -- you have been at Guantanamo
14 since 2006?

15 A. Yes.

16 Q. So for the first three years, nothing?

17 A. Nothing for me.

18 Q. And then something started to happen?

19 A. Yes.

20 Q. All right. I'm going to start with vibrations. What
21 does that mean?

22 A. What means vibration?

23 Q. Yeah.

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- 1 A. Vibration is vibration.
- 2 Q. Thank you. That helps me. Where is it coming from?
- 3 A. I don't know where it's coming from.
- 4 Q. Where do you feel it?
- 5 A. I feel it in the ground.
- 6 Q. In the ground?
- 7 A. Yeah.
- 8 Q. Is that it?
- 9 A. Yeah.
- 10 Q. Okay. How about when you're on your bed?
- 11 A. Also.
- 12 Q. Also on your bed?
- 13 A. Yes.
- 14 Q. Is your bed vibrating?
- 15 A. Yes.
- 16 Q. You just told me it was the floor?
- 17 A. The floor -- my bed is on the floor.
- 18 Q. So the floor -- the bed vibrates separately or it's
- 19 because the floor is vibrating?
- 20 A. Because of the floor.
- 21 Q. Where does this happen, your cell?
- 22 A. In the cell.
- 23 Q. That's it?

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1 A. Even outside the cell.
2 Q. Outside the cell, too.
3 A. Yeah. When I'm in the rec, in the rec area also.
4 Q. Where is your rec area? Attached, attached to your
5 cell?
6 A. No.
7 Q. Is it the floor there also?
8 A. Yes.
9 Q. Time of day. What time of day does it happen?
10 A. Whenever I go outside.
11 Q. Whenever you -- I'm sorry. In your cell, what time
12 of day is it happening?
13 A. Almost when you're sleeping they try to make the
14 things ----
15 Q. I'm sorry, sir. Slow down, please.
16 A. At the time of sleeping. The sleeping time.
17 Q. At the time of sleeping?
18 A. Yes.
19 Q. You said there was also a smell?
20 A. Yes.
21 Q. When was that?
22 A. Every time.
23 Q. All the time as well?

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1 A. All the time.

2 Q. Tell me, Mr. Gouled, what is making the vibration?

3 A. Who making what?

4 Q. What is making it?

5 A. I don't get your question.

6 Q. What's making the floor vibrate?

7 A. Some people making vibrating.

8 Q. Some people are?

9 A. Yeah.

10 Q. Who are they?

11 A. I don't know who are they.

12 Q. You don't see them, am I correct?

13 A. Yes.

14 Q. Is it the guards?

15 A. Possible.

16 Q. Binalshibh says it's the guards.

17 A. Yes.

18 Q. Is he right or is he wrong?

19 A. Maybe he's right.

20 Q. You don't know?

21 A. Me, I don't know, but ----

22 Q. Have you ever seen the guards vibrate your floor?

23 A. They didn't come in my cell to vibrate, but there's

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1 something coming out of the cell, so I don't know who be --
2 and I think the guards or someone, but someone did it.

3 Q. Someone did it. They're making ----

4 A. No matter who.

5 Q. Listen to my question. They're making the floor
6 vibrate by what, using a machine?

7 A. That's what I want you to know. I don't know what
8 they did, I don't know how they did this. You tell me.

9 Q. You told us at one time that you complained?

10 A. Not a one time. Several times.

11 Q. I'm sorry. Several times you complained, but it
12 hasn't been for a while; is that correct?

13 A. Yes.

14 Q. When did you complain? What year was it that you
15 were complaining?

16 A. Since the cell -- since 2009.

17 Q. So 2009. And for what, a few years you complained?

18 A. Yes.

19 Q. And then you stopped?

20 A. Yes.

21 Q. Okay. The times that you were complaining, you would
22 complain to the guards?

23 A. I'm complained to -- I'm not complaining the guards,

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1 above the guards. The watch commander, the AWC, what you call
2 the camp commander.

3 Q. You complained to the guards, you complained to the
4 commanders, you complained to everybody that listens, right?

5 A. Yes.

6 Q. Didn't they tell you it wasn't happening, you are
7 imagining it?

8 A. Yes, that's what they told me.

9 Q. But you still feel it?

10 A. But I still feel it.

11 Q. Now, of the people on the tier, and you've named a
12 couple that you think it's happening to them. Binalshibh
13 complains by far the most; am I correct?

14 A. Pardon?

15 Q. Binalshibh complains the most; am I correct?

16 A. Yes.

17 Q. He complains often?

18 A. Often, yes.

19 Q. He complains loud?

20 A. Not every time loud. Sometimes not loud. Sometimes
21 he's -- gently he complains.

22 Q. Sometimes he complains gently, sometimes he screams
23 and curses; am I right?

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1 A. Yes.

2 Q. And recently it's gotten to the point where his
3 lawyer has given him a complaint form; is that correct?

4 A. Uh-huh. Yes, yes.

5 Q. Have you seen this form?

6 A. Yes.

7 Q. And he writes on it and hands it to the guard?

8 LDC [MR. HARRINGTON]: Judge, I'll object to that.

9 MJ [COL POHL]: Basis?

10 LDC [MR. HARRINGTON]: He's interfering with the
11 relationship with his attorney.

12 TC [MR. RYAN]: I'm sorry. My fault, Judge.

13 MJ [COL POHL]: Ask the question. Do you want to
14 rephrase?

15 TC [MR. RYAN]: Sure.

16 MJ [COL POHL]: Okay. The objection is sustained then.
17 Go ahead.

18 Questions by the Trial Counsel [MR. RYAN]:

19 Q. Mr. Binalshibh somehow has a form that he uses to now
20 complain about these things, correct? Did you hear my
21 question?

22 A. Pardon?

23 Q. Binalshibh now has a form that he fills out and

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1 complains about the vibrations; is that right?

2 A. Yes.

3 Q. Other detainees on the tier have complained about
4 Binalshibh being disruptive; am I right?

5 A. No.

6 Q. Nobody's complained?

7 A. No.

8 Q. How about Zubaydah?

9 A. Zubaydah?

10 Q. Yes. Doesn't he try to get Ramzi to calm down and
11 stop yelling?

12 A. He wants to help him.

13 Q. My question is, hasn't he tried to get Ramzi
14 Binalshibh to stop complaining?

15 A. Not stop complaining.

16 Q. Isn't it true that Zubaydah has apologized to
17 commanders for Binalshibh's disruptive conduct?

18 A. That I don't know. He didn't tell me that things.

19 Q. But it's possible?

20 A. I don't know.

21 Q. Isn't it true, sir, that there have been detainees
22 who lived near Binalshibh who asked to be taken away from
23 there because they couldn't stand Binalshibh's screaming?

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1 A. He doesn't told, no. Since I don't know.

2 Q. Have you ever known someone who said, please move me
3 away from Binalshibh, he's too disruptive?

4 A. No.

5 Q. You're saying that's never happened?

6 A. I don't know if it's happened with.

7 Q. It may have happened?

8 A. I don't know, but in Bravo where I'm living, it
9 doesn't happen.

10 Q. Now, sir, you said that you stopped complaining
11 because nobody cares; is that it?

12 A. Yes.

13 Q. All right. Now, it's not true -- it is true, though,
14 that you complain often, about many things, correct?

15 A. Yes.

16 Q. All right. Now, you've told us today that these
17 vibrations and these things they're doing to you, they happen,
18 I think you said, every minute, every hour, every day. Do you
19 remember that?

20 A. Uh-huh.

21 Q. That's your story. That's your testimony; is that
22 correct?

23 A. Yes. Yes.

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1 Q. All right. Is it not true -- is it true, sir, that
2 when Binalshibh starts screaming out his complaints that you
3 often start screaming as well?

4 A. Sometimes I help him.

5 Q. All right. Sometimes you do.

6 A. I help him, yes.

7 Q. You help him?

8 A. Yes.

9 Q. Because he's your brother?

10 A. He's my brother.

11 Q. So you try to help him?

12 A. Yeah. I know what he's been through.

13 Q. So what he's screaming about is the vibrations and
14 the noises and everything else?

15 A. That's what I know.

16 Q. And then you start to help him by screaming about it,
17 too?

18 A. Yes.

19 Q. Okay. So your testimony is you'll scream and yell
20 about what they're doing to him, but you've given up
21 complaining about yourself, is that it?

22 A. Because no one cares.

23 Q. But you apparently think they'll care about him,

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1 because you're going to scream for him?

2 A. Because he has an attorney to tell the issue to the
3 court, and for me no one.

4 Q. Let's talk about some complaints you've had, for
5 example.

6 LDC [MR. HARRINGTON]: Judge, I'll object. He keeps
7 cutting him off when he's giving an answer.

8 MJ [COL POHL]: Yeah, just slow down there a little bit,
9 Mr. Ryan.

10 TC [MR. RYAN]: Will do, sir.

11 MJ [COL POHL]: Mr. Gouled, is English your first
12 language? Probably not.

13 WIT: No, my first language is Somali.

14 MJ [COL POHL]: Please take that into account when you are
15 questioning him. He needs time.

16 WIT: He doesn't let me to finish the answer.

17 MJ [COL POHL]: Well, he's going to let you answer.

18 **Questions by the Trial Counsel [MR. RYAN]:**

19 Q. Mr. Gouled, I don't want to cut you off. If I cut
20 you off, please tell me so. Okay?

21 A. You did already.

22 Q. Do you recall a complaint about an ice pack?

23 A. What do you mean ice pack?

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1 Q. Do you recall complaining to the guards about an ice
2 pack that you wanted that they wouldn't give you?

3 A. No.

4 Q. You don't? Let me read you this and see if it
5 refreshes your recollection.

6 The guards said, "I went to get an ice pack from the
7 freezer but the waters were not frozen" ----

8 LDC [MR. HARRINGTON]: Judge, I object. It's not a proper
9 form of refreshing his recollection.

10 TC [MR. RYAN]: I'm trying to see if he remembers it, if
11 he denies it, he does.

12 MJ [COL POHL]: Objection is overruled.

13 Questions by the Trial Counsel [MR. RYAN]:

14 Q. The water was half frozen, and told Mr. Gouled, "This
15 is all we have. Not all of the waters are frozen all the
16 way."

17 He said, "This is not an ice pack. I want an ice
18 pack, you liar, you asshole. Take this back, you bastard."
19 Do you remember that?

20 A. I don't recall.

21 Q. Do you remember this issue of an ice pack, where you
22 wanted one and they didn't have one?

23 A. The issue happens every time, not only ice pack.

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1 Since been here in the camp, there's a lot of things happen.

2 I don't recall.

3 Q. So it does happen?

4 A. I don't recall now the ice pack.

5 Q. I'm sorry. But you do complain about it when it
6 happens?

7 A. We complain everything. We complain a lot of things.

8 Q. So you do complain about a lot of things?

9 A. Yes.

10 Q. Including ice packs, correct?

11 A. I don't -- I don't recall, but you can't tell. You
12 can say it like that if you want.

13 Q. Sir, do you remember a time when you spit out the
14 food tray slot on a guard?

15 A. Yeah. I did it.

16 Q. You did?

17 A. Yeah.

18 Q. And then you threw your cereal out as well; do you
19 recall that?

20 LDC [MR. HARRINGTON]: Judge, I'll object to these
21 questions. What -- I'm not quite sure what the purpose of it
22 is.

23 TC [MR. RYAN]: Once again, Judge, it goes to ----

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1 LDC [MR. HARRINGTON]: Why don't you let me finish?

2 TC [MR. RYAN]: Yes, sir. I'm sorry.

3 LDC [MR. HARRINGTON]: Judge, I don't know what the
4 purpose of this is. It has nothing to do with this particular
5 issue here.

6 MJ [COL POHL]: Mr. Ryan, what's the relevance?

7 TC [MR. RYAN]: Judge, it goes to bias and I'm also laying
8 foundation for a question that's going to be relevant in a
9 very short period of time.

10 MJ [COL POHL]: Objection is overruled.

11 You may ask the question.

12 Questions by the Trial Counsel [MR. RYAN]:

13 Q. You had a disagreement with the guards about this and
14 you complained by spitting on her; is that correct?

15 A. It's major thing that someone leave -- sometimes the
16 guards, we have problems and we get along. It's not some big
17 issue, that throwing something, spitting. It's a normal
18 thing. If you are there in the camp, you would do the same or
19 worse than that.

20 Q. Thank you for that, sir, but my question was simply
21 this, did you, in fact, have a disagreement and you spit on
22 the guard and you threw your cereal out the slot?

23 A. I push them also.

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1 Q. Say again, sir?

2 A. I push them also. It's not the issue of the things
3 that you ask me.

4 Q. So you're not afraid to speak up for yourself, are
5 you, sir?

6 A. About what?

7 Q. You're not afraid to protest for yourself, are you?

8 A. Not -- because this major time to protest.

9 Q. Let me ask you ----

10 MJ [COL POHL]: Let him finish the answer.

11 Do you have anything further to add on that,
12 Mr. Gouled? Do you have anything to say on the last question?

13 WIT: No. I told him that it's not a big issue.
14 Sometimes you have problems. I'll tell them my problems and I
15 tell everyone, guards or no matter who.

16 **Questions by the Trial Counsel [MR. RYAN]:**

17 Q. And on this occasion, it resulted in you feeling like
18 you had to spit on somebody and throw food out the slot,
19 correct?

20 A. That's not insult, but I did it.

21 Q. Did you say it's not an insult?

22 A. Whatever you call, insult or whatever you call, but I
23 did it.

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1 Q. You did it?

2 A. Yeah.

3 Q. Thank you, sir. You've also had problems with the
4 guards to the point that they've had to do an FCE, a forced
5 cell extraction and take you out, correct?

6 LDC [MR. HARRINGTON]: Judge, I'll object to this. I
7 mean, the history of what problems he's had with the guards
8 really has nothing to do with it. He said he's getting
9 shortly to this important question that's relevant. This
10 stuff is not relevant.

11 MJ [COL POHL]: Mr. Harrington, is his relationship with
12 the guard force relevant to show any bias he may have against
13 the guard force, which is the gravamen of your complaint? I
14 mean, is not the -- is not your complaint is the guard force
15 is messing with your client?

16 LDC [MR. HARRINGTON]: It is. It is, Judge. And what he
17 has testified about it is that he has had the same problems.
18 He has given up on complaining about this particular issue.
19 The fact that he may complain about other issues ----

20 TC [MR. RYAN]: Judge, I object to counsel testifying.

21 MJ [COL POHL]: Mr. Ryan ----

22 LDC [MR. HARRINGTON]: The fact that ----

23 MJ [COL POHL]: Everybody take a step back. Okay.

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1 There's no members here. There's no members here. I asked
2 Mr. Harrington a question. I'm going to let him answer it. I
3 understand about speaking objections. But because of the
4 nature of what this is, I'll ask him.

5 Again, there's no members here.

6 TC [MR. RYAN]: No, but the witness is here.

7 MJ [COL POHL]: I got the witness here. I got that. I
8 understand that, Mr. Ryan, I can see who is here.

9 TC [MR. RYAN]: I'm sorry.

10 MJ [COL POHL]: Go ahead, Mr. Harrington.

11 LDC [MR. HARRINGTON]: Judge, the fact that he may or may
12 not have a good relationship with the guards, the fact that he
13 may have complained on other things -- I mean, the fact that
14 he complained on other things is certainly a relevant point,
15 but the fact that he might have lost his temper or done
16 something else like that has nothing to do with the fact that
17 he said he stopped complaining about this because he wasn't
18 getting any relief.

19 MJ [COL POHL]: But aren't you offering for other
20 purposes, too?

21 LDC [MR. HARRINGTON]: But the -- I mean, the question is,
22 his relationship with the guards does not impact on the other
23 issues that I offered him for.

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1 MJ [COL POHL]: Okay. Objection is overruled. The
2 court -- the commission finds specifically on this point the
3 relationship with this particular accused, this detainee has
4 with the guards is relevant to the testimony that was
5 proffered by Mr. Harrington.

6 That being said, we're not going to beat this to
7 death, Mr. Ryan.

8 TC [MR. RYAN]: I understand, Your Honor.

9 MJ [COL POHL]: Okay. Go ahead.

10 Questions by the Trial Counsel [MR. RYAN]:

11 Q. You have -- because of problems you've had with the
12 guards where you didn't do what they told you to do, you have
13 been forcibly extracted from your cell, correct?

14 A. It's wrong.

15 Q. It's wrong?

16 A. Yeah. The FCE ----

17 Q. Yes.

18 A. ---- that I did was another reason. Not that they --
19 the guard and I -- not guards, for the other reason.

20 Q. All right. My question to you, sir, is did it
21 happen?

22 A. It did, the FCE.

23 Q. It happens many times?

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1 A. Many times, but not with the way that you are telling
2 me now, that the guards -- not something about the guards,
3 it's something that happened was another reason about why I
4 did ----

5 Q. I'm not asking about a reason.

6 A. You not tell the FCE about the issue -- you already
7 mentioned something.

8 MJ [COL POHL]: Mr. Gouled, I think you guys are just --
9 just so you understand, you have been subject to some FCEs; is
10 that true?

11 WIT: Yes.

12 MJ [COL POHL]: But not because you complained about the
13 noises?

14 WIT: No.

15 TC [MR. RYAN]: That's fine, sir.

16 **Questions by the Trial Counsel [MR. RYAN]:**

17 Q. All I'm asking you is, many times you have been
18 extracted from your cell?

19 A. Yes. Yes.

20 Q. And it happened because you had disagreements with
21 the guards and they instructed you to do something and you
22 didn't do it?

23 A. No. That's not the reason.

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1 Q. That's not the reason. Fine. All of the events that
2 I've been talking to you about, the ice pack and the FCE and
3 the spitting, all of that's recorded by the guards, they write
4 it down, correct?

5 A. I don't know if they write or not.

6 Q. They keep records about what you do; am I correct?

7 A. I don't know.

8 Q. Okay. Well, since I'm talking to you about it, I
9 think you do know, correct?

10 A. I don't know where you got these things.

11 LDC [MR. HARRINGTON]: Objection ----

12 MJ [COL POHL]: That objection is sustained. He says he
13 doesn't know what the guards did.

14 Questions by the Trial Counsel [MR. RYAN]:

15 Q. In the course of the year from March 2015 to
16 March 2016 tell me how many times the guards recorded you
17 complaining about vibrations happening to you.

18 A. When?

19 Q. From March ----

20 MJ [COL POHL]: Mr. Ryan, Mr. Ryan, the way you framed
21 that question is that you want him to answer what the guards
22 did, if he knows. He already indicated he didn't know, but I
23 mean, that's a -- the question isn't how many times he

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1 complained. The question is how many times the guards wrote
2 it down.

3 TC [MR. RYAN]: Understood.

4 MJ [COL POHL]: Just seems that he's already said that's
5 not within the scope of his knowledge.

6 **Questions by the Trial Counsel [MR. RYAN]:**

7 Q. From March 2015 to March 2016, how many times did you
8 complain to the guards about the vibrations and things
9 happening to you?

10 A. I didn't complain.

11 Q. For that whole year?

12 A. For this year.

13 Q. From March 2015 to March 2016 you did not complain
14 once; am I correct?

15 A. 2016?

16 Q. All right, sir. Look ----

17 A. I don't know. I don't get it. I don't get your
18 question.

19 Q. Do you want it in a different language?

20 A. No, I don't get it. But repeat it. Repeat it.

21 Q. I'll put it to you this way. You complained about it
22 for a couple of years and you've stopped and you've never
23 complained about it again. That's your testimony?

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1 A. Yes.

2 Q. So is it correct to say that there is no record about
3 you complaining, of you complaining about any vibrations
4 happening to you for a while now?

5 LDC [MR. HARRINGTON]: Objection, Judge.

6 TC [MR. RYAN]: He answered, Judge.

7 LDC [MR. HARRINGTON]: How would he know if there is a
8 record?

9 MJ [COL POHL]: We have gone over this many times. He
10 established that he has not complained and there is not a
11 record. I got the context, Mr. Harrington.

12 **Questions by the Trial Counsel [MR. RYAN]:**

13 Q. However, do you recall on a certain period of time
14 where you were recorded as saying, if 13 tells you to stop
15 shaking his cell, then stop shaking his cell? Do you remember
16 saying that?

17 A. Yes, I do.

18 Q. So over a period of time, the only complaint you ever
19 registered about shaking of cell was Binalshibh?

20 A. Yes.

21 Q. Not you?

22 A. It happened to me. I stopped complaining, as I told
23 you. On me, I stopped to complain this issue. It hasn't

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1 happened to me.

2 Q. I'm sorry, sir. What hasn't happened to you?

3 A. It means that I stopped complaining the vibrations
4 and other things that I feel in my cell. That's the main
5 point.

6 Q. Wasn't the real reason that you were yelling that was
7 to get Binalshibh to shut up?

8 A. No, to help him.

9 Q. Because they were shaking his cell?

10 A. They were shaking and they do it a lot.

11 Q. And they are shaking your cell, too, correct?

12 A. Yes.

13 Q. But you didn't complain for yourself, just for him?

14 A. Yeah. Because no one hears me no more.

15 Q. You didn't even mention that it was happening to you
16 at the same time, correct?

17 A. Yeah, I didn't. I told them. I told them the same
18 thing that I feel.

19 Q. Is America your enemy?

20 LDC [MR. HARRINGTON]: Objection, Judge.

21 MJ [COL POHL]: Overruled. But you're going to go limited
22 on this, Mr. Ryan. You keep repeating yourself, so I'm going
23 to let you do this one, but I'm saying I don't know how many

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1 times I have heard the answer "I stopped complaining." So
2 you've gone to a new subject, I got it, but ----

3 TC [MR. RYAN]: Done with that line, sir.

4 MJ [COL POHL]: You want to go to the bias, you can, but
5 again, let's not spend too much time on what's obvious.

6 TC [MR. RYAN]: Yes, sir.

7 **Questions by the Trial Counsel [MR. RYAN]:**

8 Q. Is America your enemy?

9 A. I'm not in Guantanamo if it's not my enemy.

10 Q. Thank you for that, but now my question is, is
11 America your enemy? Do you believe America is your enemy?

12 A. No, I'm not believing. I think they're my friend.

13 Q. You think they're your friends?

14 A. Yeah.

15 Q. Are you kidding right now?

16 A. No, they give me food in my Camp VII.

17 Q. They give you food in your Camp VII so they are your
18 friends?

19 A. Yes.

20 Q. Even while they're shaking your cell every day?

21 A. And even shaking me and still they are feeding me.

22 Q. Did you try to enter the United States using a false
23 passport in 1994?

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1 LDC [MR. HARRINGTON]: Objection, Judge. No relevance at
2 all.

3 TC [MR. RYAN]: Same thing, Judge. Bias.

4 LDC [MR. HARRINGTON]: How is that bias?

5 MJ [COL POHL]: Too attenuated, objection sustained.

6 Questions by the Trial Counsel [MR. RYAN]:

7 Q. In 1996, did you train at a camp in Afghanistan?

8 LDC [MR. HARRINGTON]: Objection, same.

9 MJ [COL POHL]: That objection is overruled.

10 Questions by the Trial Counsel [MR. RYAN]:

11 Q. In 1996, did you train at the Khaldan Camp in
12 Afghanistan?

13 A. No.

14 Q. You've never been to that camp?

15 A. No.

16 Q. Have you been to another camp?

17 A. I haven't been nowhere.

18 Q. You have never trained at any camp?

19 A. No.

20 Q. You're lying to us right now, aren't you, sir?

21 A. No.

22 Q. In 2003, did you case, that is, observe, a U.S.
23 military base in Djibouti?

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1 LDC [MR. HARRINGTON]: Judge, I'll object again. What
2 does his past behavior have to do ----

3 TC [MR. RYAN]: He told me the United States is his
4 friends. If I can point out that in fact he was trying to
5 kill American Soldiers, it would seem to ----

6 MJ [COL POHL]: Well, if you can establish that. But I'll
7 give you some leeway. But you're stuck with the answer,
8 though, Mr. Ryan. If he says no, the answer is no.

9 TC [MR. RYAN]: If I can get there, Judge. There was an
10 objection.

11 MJ [COL POHL]: I know. The objection is overruled. Just
12 saying, he answers your question and then ----

13 TC [MR. RYAN]: I understand, Judge.

14 MJ [COL POHL]: ---- you're stuck with the answer.

15 **Questions by the Trial Counsel [MR. RYAN]:**

16 Q. Did you go out and observe a U.S. military base in
17 Djibouti in 2003 ----

18 A. No.

19 Q. ---- for the purpose of planting a truck bomb
20 suicide?

21 A. No.

22 Q. Did you ever go to a U.S. base for the purpose of
23 observing it?

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1 A. No way.

2 Q. Have you ever been to Djibouti?

3 A. I have been in Djibouti for a long time but not in
4 the case for exploring or something like this.

5 Q. Is it true that under your version of Islamic law,
6 it's acceptable to lie to infidels?

7 LDC [MR. HARRINGTON]: Objection, Judge.

8 MJ [COL POHL]: Overruled.

9 WIT: No.

10 Questions by the Trial Counsel [MR. RYAN]:

11 Q. You can't?

12 A. My Sharia tells me that I have to tell the truth.

13 Q. To whoever is asking the questions?

14 A. Depends.

15 Q. Depends?

16 A. Uh-huh.

17 Q. Okay. Sir, in the course of your testimony today, am
18 I correct to say that you've lied to us many times?

19 A. I'm not lying.

20 TC [MR. RYAN]: That's all I have, Judge.

21 MJ [COL POHL]: Mr. Harrington, any redirect?

22 REDIRECT EXAMINATION

23 Questions by the Learned Defense Counsel [MR. HARRINGTON]:

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1 Q. Mr. Gouled, just to clarify something, Mr. Ryan asked
2 you about whether you had been on the same tier with
3 Mr. Binalshibh since you met him back in 2009. You have been
4 on that same tier that whole time or not?

5 A. No.

6 Q. And he asked you about your nickname, as you call it;
7 is that right?

8 A. Yeah. My nickname is Ja'far.

9 Q. Right. And many of your brothers have nicknames,
10 don't they?

11 A. Yes.

12 Q. And what's Ramzi Binalshibh's nickname? Is it just
13 Ramzi?

14 A. Ramzi.

15 Q. No other name, correct?

16 A. No.

17 LDC [MR. HARRINGTON]: That's all I have, Judge.

18 MJ [COL POHL]: Mr. Ryan, anything further based on those
19 questions?

20 TC [MR. RYAN]: No, sir. Thank you.

21 MJ [COL POHL]: Okay. Mr. Gouled, I want to thank you for
22 your testimony. You are excused.

23 WIT: Okay. Thank you.

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1 [The witness was excused and withdrew from the courtroom.]

2 MJ [COL POHL]: Commission is in recess for 15 minutes.

3 [The R.M.C. 803 session recessed at 1115, 2 June 2016.]

4 [END OF PAGE]

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