

UNCLASSIFIED//FOR PUBLIC RELEASE
MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY

UNITED STATES OF AMERICA

v.

ABD AL HADI AL IRAQI

AE032D

Defense Notice in
Response to Military Judge's
Order in AE032C

11 March 2015

1. Pursuant to the Military Commission Order in AE032C, the Defense provides the following notice of new evidence, not available at the time of filing AE032, that we believe is relevant to the Commission's decision on AE032.

2. Given the decisions of the Commissions in the cases of *United States v. al Nashiri*, and *United States v. KSM, et al*, the Defense believes that the appearance of unlawful influence in violation of 10 U.S.C. §949b is a given; however, we believe that Change 1 constituted actual unlawful influence and that the rescission of Change 1 does not remedy the actual unlawful influence (and certainly not the ongoing appearance of unlawful influence), especially in this particular Commission.

3. Therefore, we intend to introduce documentary evidence consisting of the full DEPSECDEF action packet approving Change 1, as well as email traffic between the Convening Authority and

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his legal advisors contemplating the effects of Change 1. (We received the vast majority of these documents at approximately 1500 hours on 10 March and are still in the process of determining which documents we intend to introduce. Based on our initial review we anticipate approximately 30 documents.) We also intend to offer the testimony of Mr. Vaughn A. Ary regarding his motivation to increase the pace of litigation, and his concerns specifically about this Military Commission.

4. We intend to file a motion for leave to supplement AE032 with the documentary evidence for consideration by the Commission in advance of the March hearing.

5. Attachment:

A. Certificate of Service

Respectfully Submitted,

//s//

THOMAS F. JASPER, Jr., LtCol, USMC
Detailed Defense Counsel

//s//

ROBERT B. STIRK, Maj, USAF
Assistant Detailed Defense Counsel

ATTACHMENT A

