

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

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UNITED STATES OF AMERICA

v.

ABD AL HADI AL-IRAQI

AE 056E

**Defense Security Application Update**

21 July 2016

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1. On 12 July 2016 the Commission ordered the Defense to submit an appellate exhibit containing information clarifying the dispute over when Professor Erwin Chemerinsky completed and filed his SF-86 online. The Defense was directed to file the update with the Commission NLT 22 July 2019.

2. Professor Chemerinsky provides the following information regarding the filing of his SF-86<sup>1</sup>:

5 July 2016 – The date that Professor Chemerinsky last logged in and submitted his SF-86 via the federal government’s Office of Personnel Management’s e-QIP computer system<sup>2</sup>;

5 July 2016 – Effective on the date/time that Professor Chemerinsky submitted his SF-86, his e-QIP login password expired and he was no longer permitted to access the e-QIP system;

13 July 2016 – WHS requested additional information from Professor Chemerinsky, via email<sup>3</sup>;

13 July 2016 – Professor Chemerinsky provided the requested supplemental information, and notice that he would have his finger prints taken the week of 18 July 2016 via email<sup>4</sup>;

<sup>1</sup> See Attachment B.

<sup>2</sup> Upon information and belief, within the e-QIP system there is a digital receipt that contains independently verifiable date and time information, encoded with a digital “hash” value, linked to the submitter’s SSAN, that can be printed by the Government and which, once printed, will show the exact date and time that Professor Chemerinsky logged into the system. Because Professor Chemerinsky’s login password expired upon completion of his submission, he cannot login to print it. The Defense has requested that a new password be issued to Professor Chemerinsky so that he can login again and print that verification document. To date, the Defense’s request has been denied. The Defense therefore request that the Government secure the document from within its administrative control over the e-QIP system and produce it to this Commission as an additional exhibit

<sup>3</sup> See Attachment C.

3. The Defense provides notice that AE 056D, a document purporting to be an email from the Washington Headquarters Service to a member of the Government prosecutorial team, dated Monday, July 11, 2016 4:10 PM, states, “Mr. Edwin Chemerinsky – Has not completed and submitted his e-QIP form as of today; it appears his last entry was on 5/25/16. Mr. Chemerinsky needs to complete his e-QIP and submit to PSOD”.<sup>5</sup> The statement is factually false as Professor Chemerinsky submitted his e-QIP on 5 July 2016, six days before AE 056D was e-mailed to the Government.

4. Attachments:

- A. Certificate of Service
- B. Professor Chemerinsky’s e-QIP affidavit
- C. Email Re: e-QIP Add’l Info Needed & Fingerprints
- D. Professor Chemerinsky’s Letter to Personnel Security Specialist

Respectfully submitted,

//s//

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Brent Rushforth  
Pro Bono Counsel

MAJ Wendall H. Hall, USA  
MAJ Robert T. Kincaid, III, USA  
LCDR Keith B. Lofland, JAGC, USN  
Detailed Defense Counsels

<sup>4</sup> See Attachment D.

<sup>5</sup> See AE 056D.

# ATTACHMENT A

Filed with TJ  
21 July 2016

Appellate Exhibit 056E (al Hadi)  
Page 3 of 12

CERTIFICATE OF SERVICE

I certify that on the 21st day of July, 2016, I filed AE 056E, **Defense Security Application Update**, with the Office of Military Commissions Trial Judiciary and I served a copy on counsel of record.

\_\_\_\_\_  
*//s//*

WENDALL H. HALL  
MAJ, JA, USA  
Detailed Defense Counsel

# ATTACHMENT B

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21 July 2016

Appellate Exhibit 056E (al Hadi)  
Page 5 of 12



Erwin Chemerinsky  
Dean and Distinguished Professor of Law  
Raymond Pryke Professor of First Amendment Law

School of Law



July 19, 2016

WENDALL H. HALL  
MAJ, USA  
DEFENSE COUNSEL  
Military Commissions Defense Organization Office of Military Commissions



Dear Major Hall:

Please consider this document my signed affidavit regarding e-QIP submission:

- With my assistant's help I originally submitted my completed e-QIP/SF-86 on July 5, 2016.
- My original password will not let me open the application and print off the date/time I submitted the form.
- On July 13, 2016 I was contacted by someone at WHS requesting more information about my family members.
- I complied with the person from WHS the same day, July 13, 2016, and provided additional information regarding my family.
- I have an appointment for July 21, 2016 to have my fingerprints taken and they will be overnighted by Federal Express to the Office of Personnel Management.

Sincerely,

A handwritten signature in black ink that reads "Erwin Chemerinsky".

Erwin Chemerinsky

# ATTACHMENT C

Filed with TJ  
21 July 2016

Appellate Exhibit 056E (al Hadi)  
Page 7 of 12

**OSD OMC Defense**

**From:** [REDACTED]  
**Sent:** Tuesday, July 19, 2016 11:14 AM  
**To:** [REDACTED] OSD OMC Defense  
**Subject:** FW: [Non-DoD Source] Re: eQIP Add'l Info Needed & Fingerprints

FYI

[REDACTED] -----Original Message-----

**From:** [REDACTED] WHS HRD (US) [mailto:[REDACTED]]  
**Sent:** Wednesday, July 13, 2016 2:00 PM  
**To:** Erwin Chemerinsky [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: [Non-DoD Source] Re: eQIP Add'l Info Needed & Fingerprints

Thanks Mr. Chemerinsky.

-----Original Message-----  
**From:** Erwin Chemerinsky [REDACTED]  
**Sent:** Wednesday, July 13, 2016 4:57 PM  
**To:** [REDACTED] WHS HRD (US)  
**Cc:** [REDACTED]  
**Subject:** [Non-DoD Source] Re: eQIP Add'l Info Needed & Fingerprints

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

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I will get you this for my [REDACTED] and get the fingerprints done.

On 7/13/16, 4:02 PM, [REDACTED] WHS HRD (US)" [REDACTED] > wrote:

Mr. Chemerinsky,

I've reviewed your eQIP forms and the full name and complete address of both of your siblings are needed in a quick short memo that I will attach to your security forms. If you are no longer in contact with either sibling and cannot obtain that information, please state that in the memo.

Also, we still need to have the two fingerprint cards processed that were sent out to you, we're unable to start your investigation without this information. If anything further is needed, please contact me. Thanks.

Respectfully,

[REDACTED]  
Personnel Security Specialist/Information Technology Assurance Officer WHS Human Resources Directorate (Mailbox #42) Personnel Security Operations Division  
[REDACTED]  
[REDACTED]

"Privacy Act of 1974 as Amended applies - this email may contain information that is protected IAW DoD 5400.11R and is For Official Use Only (FOUO)".

Tell us how we're doing! Give us feedback through our web-based customer evaluation system (EVoC). Click the link below

[REDACTED]

# ATTACHMENT D

Filed with TJ  
21 July 2016

Appellate Exhibit 056E (al Hadi)  
Page 10 of 12

**OSD OMC Defense**

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**From:** [REDACTED]  
**Sent:** Tuesday, July 19, 2016 11:13 AM  
**To:** [REDACTED] OSD OMC Defense  
**Subject:** [Non-DoD Source] FW: Letter from Erwin Chemerinsky attached  
**Attachments:** eQIP letter 7.13.16.pdf

FYI - Confidential

**From:** [REDACTED]  
**Sent:** Wednesday, July 13, 2016 7:39 PM  
**To:** [REDACTED]  
**Subject:** Letter from Erwin Chemerinsky attached

Hello,

Attached is a letter from our Dean, Erwin Chemerinsky. Please confirm receipt and let me know if there is anything further I can do to assist.

Thanks very much,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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SANTA BARBARA • SANTA CRUZ

Erwin Chemerinsky  
Dean and Distinguished Professor of Law  
Raymond Pryke Professor of First Amendment Law

School of Law



July 13, 2016

  
Personnel Security Specialist/Information Technology Assurance Officer WHS Human Resources  
Directorate (Mailbox #42) Personnel Security Operations Division

Dear Officer :

Per your request I am sending the information below to support my eQIP submission.

  
The fingerprint forms will be sent next week. Please let me know if there is anything further I can do to help facilitate processing.

Sincerely,

A handwritten signature in cursive script that reads "Erwin Chemerinsky".

Erwin Chemerinsky