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1 [The Military Commission was called to order at 1335, 27 April
2 2014.]

3 MJ [COL POHL]: The commission is called to order. All
4 parties are again present that were present when the
5 commission recessed with the exception of General Martins.
6 The witness is still on the stand.

7 Mr. Kammen.

8 LDC [MR. KAMMEN]: Can we display the document again? Is
9 that possible? There we go. Thank you.

10 **DIRECT EXAMINATION CONTINUED**

11 **Questions by the Learned Defense Counsel [MR. KAMMEN]:**

12 Q. Doctor, I'm sure you understand you're still under
13 oath. And can you see the document that we were discussing
14 when things went awry?

15 A. It's coming up now. I can't see it. I'm getting a
16 distorted image of something.

17 Q. Okay.

18 A. Wait, now it's coming. I can see it now.

19 Q. All right. We were discussing, just to get us back
20 on track, that prior doctors had seen triggers and then
21 avoidant behavior, reexperiencing symptoms, hypervigilance,
22 all which were diagnostic for severe chronic PTSD. You noted
23 that; is that correct?

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1 A. I noted that one doctor documented seeing that, the
2 other doctors carried forward that diagnosis, but they weren't
3 documenting the specific symptoms for post-traumatic stress
4 disorder. I only saw that in the very beginning, in early
5 2013.

6 Q. All right. Now, you determined that there was
7 avoidant behavior, correct?

8 A. Yes.

9 Q. That Mr. Nashiri from time to time would not see
10 treatment providers, correct?

11 A. Yes.

12 Q. Such as yourself, right?

13 A. Briefly for myself. For several months in the past,
14 yes.

15 Q. Then for something called DSMP, right?

16 A. Yes.

17 Q. He wouldn't go to DSMP, whatever that is?

18 A. Correct.

19 Q. Now, his behavior was because -- he didn't want to
20 go to see the providers or DSMP because he didn't want to have
21 the belly chains; isn't that true?

22 A. That's what he expressed to me, yes.

23 Q. Right.

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1 A. And that's what I read in his chart as well.

2 Q. Right. But you don't know whether or not for some
3 reason -- for something you don't know anything about, the
4 belly chains could be a trigger. You don't know that, do you?

5 A. Correct.

6 Q. Now, he also avoids shared joint recreation and
7 others in his tier due to -- due to what you write down as
8 perceived animosity, correct?

9 A. Yes.

10 Q. You don't know what triggers there are related to
11 his PTSD because you don't know the trauma, do you, as we've
12 discussed?

13 A. As we discussed, I don't factually know, but I have
14 very likely strong suspicions.

15 Q. And you don't know whether or not the shared joint
16 recreation in some way triggers something that happened way
17 before he ever came to Guantanamo. You don't know that, do
18 you?

19 A. No.

20 Q. Now, you indicate that there are two symptoms of
21 hyperarousal, right? You say, and I'm quoting, "he does
22 maintain two symptoms of hyperarousal" ----

23 A. Yes.

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1 Q. ---- correct?

2 A. Yes.

3 Q. One of those symptoms is irritability and anger,
4 right?

5 A. Correct.

6 Q. And the other is sleep issues; isn't that true?

7 A. Yes.

8 Q. As we've discussed, irritability and anger is a
9 symptom of PTSD, correct?

10 A. It is a symptom of several diagnoses ----

11 Q. It is also ----

12 A. ---- yes.

13 Q. ---- it is within the diagnostic criteria for PTSD;
14 isn't that true?

15 A. Yes.

16 Q. It is?

17 A. Yes, it is.

18 Q. It is not within the diagnostic criteria for
19 narcissistic personality disorder, is it?

20 A. That's correct.

21 Q. Decreased sleep quantity and quality are within the
22 diagnostic criteria for PTSD; isn't that correct?

23 A. Yes.

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1 Q. It is not within the diagnostic criteria for
2 narcissistic personality disorder, true?

3 A. That is correct.

4 Q. Now, as you go on to say, regardless of his
5 diagnosis -- you don't care what his diagnosis is ----

6 MJ [COL POHL]: Just -- if you are going to read it, read
7 it. Don't editorialize.

8 LDC [MR. KAMMEN]: I apologize, Your Honor.

9 Q. Regardless of his diagnosis, at least in your
10 experience, he refuses medication ----

11 MJ [COL POHL]: Mr. Kammen, again, if you are going to
12 read a quote, read the quote, and then you can add whatever
13 you want on that, but you're interjecting your own words. Go
14 ahead.

15 Q. As you say, regardless of his diagnosis, he
16 continually refuses medication to create -- to treat his
17 occasional nightmares, right?

18 A. Yes.

19 Q. You go on to say -- well, let me ask you.

20 You don't know if there's anything in his background
21 that would cause him to refuse medication, do you?

22 A. No.

23 Q. You don't know during the hell he endured, using

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1 your terms, before he came to Guantanamo whether medication
2 provided by a person in uniform is a trigger, do you?

3 A. When I asked him why he was refusing?

4 Q. No, no.

5 A. No.

6 MJ [COL POHL]: The question is, Doctor. Do you know?

7 WIT: No, I do not, Your Honor.

8 MJ [COL POHL]: Thank you.

9 Q. As we've agreed, people who suffer from trauma
10 aren't always the best sources of information, are they?

11 A. Correct.

12 Q. Now, you go on to say he declines psychotherapy for
13 PTSD, right?

14 A. Yes.

15 Q. Psychotherapy would require a doctor who has a --
16 with whom a patient has a trusting relationship; isn't that
17 true?

18 A. It's more effective, but it doesn't always require
19 that, no.

20 Q. Sure. But it's more effective if there is a
21 trusting relationship; isn't that true?

22 A. Again, it's more effective, but it's not required.

23 Q. It's more effective if the -- if the psychotherapist

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1 is interested in the causes of the problem; isn't that true?

2 A. Not necessarily.

3 Q. Actually -- so it's not necessary for the
4 psychotherapist to actually believe the trauma exists in
5 treating for trauma?

6 A. That's not necessary, no.

7 Q. Okay. And is that the view not only of you but of
8 the other doctors -- psychiatrists that have treated
9 Mr. Nashiri during his time in Guantanamo?

10 A. Well, I don't know what the other view of the other
11 psychiatrists that have treated him.

12 Q. Fair enough. That's your view?

13 A. You can ask them. Correct.

14 Q. That's your view.

15 Now, because you do not know whether or not --
16 psychotherapy is talk therapy; isn't that correct?

17 A. You could describe it as that, yes.

18 Q. Okay. And you don't know whether or not
19 psychotherapy provided by a person in uniform is a trigger,
20 true? Talking to somebody in their uniform can be a trigger
21 under some circumstances; isn't that true?

22 A. Correct.

23 Q. And you don't know ----

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1 A. Correct.

2 Q. ---- you don't know whether it's a trigger or not,
3 do you?

4 A. That's correct.

5 Q. And the last time you saw him appears to have been
6 in March the 19th; is that correct?

7 A. No. That's not correct.

8 Q. When was the last time you saw him?

9 A. Last week.

10 Q. And did you create a report?

11 A. There was a report. I saw him with my replacement
12 psychiatrist. At that time I saw him the week before that, so
13 there's probably maybe three encounters beyond -- you said
14 March 17th or 19th? What's the last note that you have? They
15 would not have changed remarkably from this encounter.

16 Q. Well, I understand that. The problem is neither the
17 government nor I have those reports. Do you have any idea why
18 that is?

19 A. No, I do not.

20 Q. Okay.

21 A. When I was at camp about a week and a half ago, we
22 copied, provided all of the most current notes for Mr. Nashiri
23 onto CD-ROM. It was one of my requirements to do that kind of

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1 record management, and I had to train my replacement how to do
2 that, so we specifically did that with Mr. Nashiri. So
3 obviously we couldn't burn anything since, you know, in the
4 last two weeks, but up to that point they were included on the
5 psychiatric disk.

6 Q. Well, okay.

7 A. But, again, I don't know if that's necessarily
8 relevant in the sense of ----

9 MJ [COL POHL]: Doctor -- Doctor -- Doctor ----

10 A. ---- in the sense of ----

11 MJ [COL POHL]: ---- you answered the question. You
12 answered the question.

13 WIT: Okay. Yes, Your Honor.

14 **Questions by the Learned Defense Counsel [MR. KAMMEN]:**

15 Q. Now, the last report we have, you saw him for
16 50 minutes, correct?

17 A. Yes.

18 Q. He complained of insomnia, right?

19 A. Yes.

20 Q. A symptom of PTSD, potentially?

21 A. Yes.

22 Q. Not diagnostic for narcissistic personality
23 disorder, correct?

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1 A. Yes.

2 Q. He indicated that his mood was fine, but as you say
3 in the report, he says he's always fine, even if he's not,
4 right?

5 A. Yes.

6 Q. At the end of the day -- well, let me go back.

7 In -- do you recall Mr. Nashiri's initial mental
8 health assessment? Do you recall reading that?

9 A. I recall reading it, yes. I can't quote it
10 verbatim. I don't have it memorized.

11 Q. Sure. I wouldn't expect you to.

12 LDC [MR. KAMMEN]: What's the next -- 205Q?

13 MJ [COL POHL]: Quebec.

14 LDC [MR. KAMMEN]: I'm scared that I know that.

15 MJ [COL POHL]: You're learning, Mr. Kammen.

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

17 Q. What I understand to be the first initial intake
18 assessment ----

19 MJ [COL POHL]: What's the date on that, please?

20 LDC [MR. KAMMEN]: 8 September 2006.

21 Q. Do you recall reading -- as you look at it, do you
22 recall reading it?

23 A. Yes.

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1 Q. Okay. Now, I'm going to ask you a couple of
2 questions, and just because I'm not sure where I'm going,
3 please answer them yes or no.

4 One of the sources of information besides a medical
5 record and an interview is transfer documents. Do you see
6 that?

7 A. Yes.

8 Q. Have you ever seen those transfer documents?

9 A. No, I have not.

10 Q. You don't know what was in there?

11 A. Correct.

12 Q. And there's nothing in this report, and please
13 answer this yes or no, that would tell anyone where
14 Mr. Nashiri was transferred from, is there?

15 A. Correct.

16 Q. Now, at the bottom there is a past medical history,
17 and then there's a -- something that's redacted, and we don't
18 know what that is; is that correct?

19 A. Yes.

20 Q. And there is a -- what purports to be an adult
21 medical history, correct?

22 A. Yes.

23 Q. And nothing in that adult medical history, and

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1 please answer this -- we can all read it, correct? I mean,
2 you can read it?

3 A. Yes.

4 Q. And there's nothing in there ----

5 A. Yes, sir.

6 Q. ---- that covers the three or four years prior to
7 September 2006, is there?

8 A. Correct.

9 Q. That -- whoever did that never asked, apparently, or
10 didn't document ----

11 MJ [COL POHL]: Mr. Kammen, let's ----

12 LDC [MR. KAMMEN]: It's not there.

13 MJ [COL POHL]: It's just not there. I'm trying to
14 figure out how this is relevant to what this witness can
15 testify to.

16 LDC [MR. KAMMEN]: It's relevant, Your Honor, because it
17 shows that from the beginning of 2006 until at least March
18 the 19th nobody has ever bothered to determine the source of
19 the trauma. It's like Dr. Crosby said, it's the elephant in
20 the room.

21 MJ [COL POHL]: Okay.

22 Questions by the Learned Defense Counsel [MR. KAMMEN]:

23 Q. And the second page, just to be clear, has no

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1 diagnosis on Axis I; is that correct?

2 A. Yes.

3 Q. Nothing that would provide a diagnosis for Axis I;
4 is that correct?

5 A. Correct.

6 Q. If one of the possible diagnoses on Axis I, as we've
7 discussed is PTSD, true?

8 A. Yes.

9 Q. And, in fact, when they were following up, the only
10 stressor that was noted, of course, was confinement at
11 Guantanamo, right?

12 A. Correct.

13 Q. Nothing about anything that might have happened
14 anytime before ----

15 MJ [COL POHL]: Mr. Kammen, I can read the document as
16 well as the witness can.

17 A. That's correct.

18 Q. And the weekly follow-up wanted to do a complete
19 evaluation for assessment of Axis II, correct?

20 A. Correct.

21 Q. Axis II evaluation would not involve looking at
22 trauma, would it?

23 A. Correct.

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1 Q. It would not involve seeing if this guy suffers from
2 severe, chronic PTSD, would it?

3 A. Correct.

4 Q. At the end of the day, Doctor, you have left
5 Guantanamo, right?

6 A. Yes, sir.

7 Q. Correct?

8 A. Yes.

9 Q. The military, to your knowledge, does not intend to
10 send you back. This was a ----

11 A. Correct.

12 Q. This was a temporary assignment, right?

13 A. Yes, sir.

14 Q. And among your last acts, as we've seen, was
15 quarrelling with the diagnosis of several other physicians;
16 isn't that true?

17 A. No.

18 Q. It's not true?

19 A. Not to quarrel with the diagnosis of several other
20 physicians, but to better document -- as we described at the
21 beginning, documentation is obviously important. And when
22 the -- he was initially diagnosed with post-traumatic stress
23 disorder in early 2013, it was poorly documented as to why and

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1 how they made that determination. So I was trying to pass on
2 to my successor and the next several successors better
3 documentation as to why I believe he has the diagnosis that I
4 am providing him after spending, you know, several months, and
5 eventually over a significant amount of time finally getting
6 better resolution into what his current symptoms are.

7 Q. Better resolution, we can agree, in your opinion?

8 MJ [COL POHL]: Of course it's his opinion. It's always
9 his opinion.

10 Q. Let me ask you this: Do you think it would be fair
11 to tell these future doctors that an expert in torture has
12 found that Mr. Nashiri suffers the effects of physical,
13 psychological -- mental or emotional, excuse me, and sexual
14 torture? Do you think it would be fair to tell them that as
15 well?

16 A. Sure.

17 Q. Do you think it would be also fair to tell them that
18 three esteemed military doctors found that he suffers from
19 PTSD?

20 A. Sure.

21 LDC [MR. KAMMEN]: Thank you. I don't have any other
22 questions.

23 MJ [COL POHL]: Trial Counsel, any questions of this

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1 witness?

2 ATC [LT DAVIS]: Yes, Your Honor.

3 **CROSS-EXAMINATION**

4 **Questions by the Assistant Trial Counsel [LT DAVIS]:**

5 Q. Good afternoon, Doctor. If we could, could you --
6 can you hear me okay?

7 A. Yes, I can.

8 Q. Okay. If we could just go back to some of your
9 experiences. I know you indicated that you went to medical
10 school. You did a psychiatric residency for about a period of
11 five years; is that correct?

12 A. Yes, it is.

13 Q. Okay. And in the course of that residency and in
14 the time since then, have you had the opportunity to deal with
15 patients that have PTSD?

16 A. Several ----

17 Q. Okay. Have you been trained ----

18 A. ---- since probably ----

19 Q. Can you estimate approximately how many patients
20 you've treated with PTSD?

21 A. Probably 150 to 200.

22 Q. And those would be patients that suffered or
23 developed their PTSD as a result of combat injuries, right?

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1 A. Combat injuries. We -- I have treated dependents,
2 wives, spouses that had other traumas, motor vehicle
3 accidents, sexual abuse, assaults, rapes. The whole gamut.

4 Q. Okay. And with regard to the senior medical
5 officer, are you aware of whether he has treated patients with
6 PTSD?

7 A. I am not aware, but normally it wouldn't be in the
8 role of a primary physician ----

9 LDC [MR. KAMMEN]: Excuse me, Your Honor. I would object
10 to anything beyond "I'm not aware."

11 MJ [COL POHL]: Objection sustained. He has answered the
12 question. Next.

13 Q. All right. I'd like to talk about your treatment of
14 the accused. We were talking -- it was brought up, this issue
15 of psychosomatic symptoms. Could you just briefly describe
16 what that would be.

17 A. Those are somatic medical issues like pain,
18 gastrointestinal issues that have both a medical component as
19 well as psychiatric component. It can be something that they
20 have -- they can have gastrointestinal reflux disease, GERD,
21 that is made worse by stress or anxiety, or it could be wholly
22 due in part to that kind of psychological condition. The same
23 with pain, that they could have a certain amount of pain that

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1 can be made worse.

2 Q. Okay. And you would agree that it's important when
3 dealing with psychosomatic symptoms that you do so in
4 conjunction with the physician that's also treating the
5 patient.

6 A. Yes.

7 Q. And in Mr. Nashiri's case, did that occur?

8 A. Yes.

9 Q. You regularly, frequently -- I guess how often would
10 you meet with Mr. Nashiri's physician?

11 A. I would meet with him, discuss cases on a daily
12 basis. We would discuss Mr. Nashiri specifically probably
13 about once or twice every week.

14 Q. And with regard to the somatic complaints that
15 Mr. Nashiri had, would you agree that those would have been
16 relieved if he had been more receptive to medication?

17 A. Absolutely.

18 Q. And when I'm talking about medication, I'm talking
19 about psychiatric medication.

20 A. Yes. Relieved by that as well as by therapy would
21 be helpful, too.

22 Q. You indicated that a trustful relationship is
23 important as you're developing a psychotherapist-patient

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1 relationship. Did you make attempts to build that kind of
2 trust with Mr. Nashiri?

3 A. Absolutely.

4 Q. Did you advocate on his behalf?

5 A. Multiple times.

6 Q. Could you give some examples of that, please?

7 A. Initially, he was wanting to have a personal DVD
8 player allowed in his cell. I advocated to the camp commander
9 as well as the Joint Detention Group Commander on his behalf.
10 He was wanting additional dietary flexibility to receive warm
11 milk throughout the day to deal with his gastrointestinal
12 issues. I advocated for that as exceptions to policy.

13 He was wanting to -- more recently, he was wanting
14 to move out of the cell block he was in due to severe
15 interpersonal conflicts with all of the detainees on that cell
16 block. I repeatedly talked to the previous outgoing camp
17 commander, the new current camp commander, other individuals
18 that would be related to the cell assignments to see if there
19 was any possibility of moving him from his current assignment
20 into a place that would be more comfortable for him.

21 Q. And did you do that at least ----

22 A. There's been times ----

23 Q. Did you do that at least in part ----

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1 A. Go ahead.

2 Q. ---- to help develop and strengthen that
3 relationship that you had with Mr. Nashiri?

4 A. Yes.

5 Q. Speaking of your meetings with him and about his
6 demeanor, did he have any problems as far as you could tell
7 communicating with you?

8 A. No problems communicating with me. He did require a
9 translator. He does understand English better than he can
10 speak it, but I -- whenever I met with him, I always had a
11 professional translator with me.

12 Q. And when he met with you, sometimes there would be
13 joking, laughter?

14 A. Absolutely.

15 Q. Easy conversation?

16 A. Usually, yes.

17 Q. As far as Mr. Nashiri's ability to recall events in
18 the past, did you see any demonstrated problems with his
19 ability to recall things that may have occurred in the past?

20 A. I didn't observe or was aware of any outright memory
21 deficits, and he never complained to me of having memory or
22 cognitive problems.

23 Q. All right. Now, Doctor, you testified that you have

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1 reviewed his psychiatric records dating back to approximately
2 2006. Included in that medical record, do you see evidence
3 that Mr. Nashiri was prescribed an SSRI?

4 A. Yes. He was -- well, he was prescribed two
5 antidepressants, Wellbutrin and Effexor. They aren't
6 technically SSRIs, but they're for depression. And he was --
7 I believe he had a rash with Wellbutrin. And with Effexor, he
8 was never on an effective treatment dose, and he very quickly
9 after starting it refused to continue that medication. He
10 never got to a therapeutic dose to see whether that would be
11 helpful for him or not.

12 Q. Okay. Now, receiving an SSRI and some form of
13 psychotherapy, that -- under the DoD clinical treatment
14 guidelines, that would be kind of the initial treatment for
15 PTSD; is that right?

16 A. Correct.

17 Q. Now, I believe you said that he tried different
18 antidepressant medications. I got that right, didn't I?

19 A. Yes.

20 Q. Yes?

21 A. Yes, correct.

22 Q. So when one wasn't necessarily working or he wasn't
23 tolerating it, he moved on to another?

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1 A. Yes.

2 Q. So prescribing a different antidepressant or a
3 different SSRI in conjunction with some psychotherapy, that --
4 that is what is recommended as step one under the DoD VA
5 clinical treatment guidelines for PTSD?

6 A. Yes.

7 Q. Step two of the guidelines suggests that you switch
8 to something -- I'm not sure I will get the pronunciation
9 right, but I believe it's called mirtazapine. Did I get that
10 pronunciation right?

11 A. Yes.

12 Q. And a ----

13 A. Yes.

14 Q. ---- a more common name for that would be Remeron?

15 A. Yes.

16 Q. And Mr. Nashiri was also prescribed Remeron; is that
17 correct?

18 A. For a short period of time, yes.

19 Q. Step three of the clinical guidelines, the DoD
20 clinical practice guidelines for treating PTSD, suggests that
21 you switch to an alternative step two, or to TCA. TCA. Could
22 you describe what TCA is, please.

23 A. It's a tricyclic antidepressant. It's an older form

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1 of antidepressant that generally has a little bit higher side
2 effects, and it's very sedating.

3 Q. All right. Now, one of those drugs, one form of a
4 TCA is Elavil; is that right?

5 A. Correct.

6 Q. Okay.

7 A. Yes, it is.

8 Q. And in July of 2011 Mr. Nashiri was prescribed
9 Elavil?

10 A. Yes.

11 Q. So with regard to the initial treatment, step one,
12 step two, and step three of the DoD guidelines with regard to
13 the clinical treatment of PTSD, each one of those steps has
14 been covered with respect to Mr. Nashiri?

15 A. Yes. And there are alternative, additional options
16 as well, like a medication to help him -- his symptoms like
17 for insomnia, for nightmares there's a medication called
18 Prazosin or Minipress which has been offered to him which he
19 has declined as well. So there's been -- in addition to those
20 guidelines, there's been multiple other attempts to treat his
21 symptoms, and PTSD.

22 Q. I'm going to talk to you a little bit about
23 avoidance. You said that you had met with the senior medical

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1 officer daily, pretty much daily, over the course of your time
2 at JTF-GTMO, right?

3 A. Correct.

4 Q. Okay. So based on those conversations, you are
5 aware that Mr. Nashiri had attempted to meet -- or actually
6 did meet with the senior medical officer on at least 20
7 occasions over the past year, right?

8 A. Yes. It was more frequent than most of the other
9 detainees, yes.

10 Q. So he wasn't avoiding the doctor, right?

11 A. No.

12 Q. He wasn't avoiding a doctor ----

13 A. No.

14 Q. ---- wearing a uniform?

15 A. Correct.

16 Q. In your situation in reviewing the record over the
17 past year, Mr. Nashiri sought out psychological or psychiatric
18 treatment probably close to 20 times as well?

19 A. Yes.

20 Q. So he wasn't avoiding his psychiatric appointments,
21 right?

22 A. Not in the sense of avoiding it due to a PTSD
23 trigger. There was sometimes when he just was tired, just

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1 wanted to stay in his cell. It wasn't that he was afraid or
2 scared or startled and avoiding it in a classic PTSD sense,
3 but just like any of us might avoid an appointment from time
4 to time, he demonstrated that.

5 Q. Doctor, you didn't get the sense it had anything to
6 do with the fact that you were wearing a uniform, right?

7 A. Not at all, no.

8 Q. Doctor, did you ever refuse Mr. Nashiri any form of
9 psychiatric treatment?

10 A. Could you repeat that? It -- the communication
11 dropped for about ten seconds.

12 Q. Absolutely.

13 Doctor, have you ever refused Mr. Nashiri any form
14 of psychiatric treatment?

15 A. Never.

16 Q. Was psychotherapy for PTSD available to the accused?

17 A. Yes.

18 Q. And that would include exposure therapy, right?

19 A. Yes.

20 Q. Okay. And what is exposure therapy?

21 A. Exposure therapy is identifying stressors or
22 triggers that cause anxiety for someone with an anxiety
23 disorder or PTSD, and then the individual rank-orders those

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1 from what is least anxiety provoking to most anxiety provoking
2 on the list. And then you guide him or her through exercises
3 as well as assign homework for them to intentionally expose
4 themselves to triggers that will intentionally cause an
5 anxiety -- an anxious response in order to sort of recalibrate
6 his amygdala, his fear center in his brain to become more
7 normalized, so in the future those same triggers will not
8 cause the degree of anxiety or negative response or may not
9 cause any anxiety whatsoever.

10 Q. And that was offered to Mr. Nashiri?

11 A. Yes.

12 Q. And he refused it?

13 A. Along with any functional psychotherapy, yes.

14 Q. And as far as you know, you can't force him to
15 engage in that kind of therapy, could you?

16 A. Exactly.

17 Q. And I believe -- as you testified earlier, if you
18 were to push a patient that doesn't want to address those
19 topics, you could actually inflict further harm or further
20 injury on that person?

21 A. You can. And specifically with therapy for PTSD,
22 prolonged exposure or other therapies, they generally will get
23 a little bit worse until they get better. And it requires a

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1 definite commitment on by the patient to agree to the whole
2 amount of sessions or else you can leave them more damaged if
3 they only go through the first few sessions.

4 Q. Doctor, talking about the March 19th change in
5 diagnosis, you would agree that when it comes to
6 post-traumatic stress disorder, symptoms can wax and wane,
7 can't they?

8 A. Absolutely.

9 Q. One could qualify for PTSD at one point, but then
10 several months later would not qualify for it because you
11 might not be showing the same symptoms?

12 A. Exactly.

13 Q. So your change in diagnosis does not necessarily
14 conflict with the 706 examination that was done almost a year
15 prior?

16 A. Exactly. Unlike some psychiatric diagnoses like
17 major depressive disorder where there is a caveat that it can
18 be in full remission or partial remission, there is no such
19 caveat to PTSD. You either have active symptoms or you don't
20 have active symptoms and don't have post-traumatic stress
21 disorder at a given time. There is no descriptor, a caveat of
22 having PTSD in partial remission or in full remission like
23 there is with other psychiatric conditions.

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1 So I'm not -- I didn't see him, you know, ten years
2 ago or five years ago or two years ago. I don't know exactly
3 what that experience was other than what I can read in the
4 notes. But his experience with me, he was not demonstrating
5 symptoms at that time when I was seeing him of post-traumatic
6 stress disorder.

7 Q. The removal of that diagnosis, does that even --
8 does that significantly change the course of treatment
9 compared to a course of treatment for anxiety disorder?

10 A. Not at all.

11 Q. So regardless of whether PTSD ----

12 A. But the same ----

13 Q. So regardless of whether PTSD is still part of the
14 diagnosis or not, he would still be offered many of the same
15 forms of treatment?

16 A. Exactly.

17 Q. Doctor, the ICRC, the International Committee of the
18 Red Cross, they come and review each detainee's medical
19 records, do they not?

20 A. Absolutely.

21 Q. And they discuss those with the senior medical
22 officer or other personnel at the detention facility?

23 LDC [MR. KAMMEN]: Excuse me, Your Honor. I don't know

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1 that I object to this, but it's my understanding that the ICRC
2 has a separate privilege. And I don't know that we're --
3 we've not been provided with ICRC records, and if we're going
4 to go into this, I mean, we'd need to see ----

5 MJ [COL POHL]: Let me -- I understand your objection.
6 Let me hear what the question is, which I haven't gotten to
7 yet.

8 Lieutenant, are you going to go into the ICRC
9 records?

10 ATC [LT DAVIS]: No, Your Honor.

11 MJ [COL POHL]: You're going to move on to something else?

12 ATC [LT DAVIS]: Yes, Your Honor. One moment, Your Honor.

13 **Questions by the Assistant Trial Counsel [LT DAVIS]:**

14 Q. Doctor, as a psychiatrist and as somebody who
15 treated Mr. Nashiri for over six months, is it your opinion
16 that he received care in accordance with the standard of
17 practice in the clinical guidelines?

18 A. Absolutely.

19 ATC [LT DAVIS]: No further questions, Your Honor.

20 MJ [COL POHL]: Mr. Kammen.

21 **REDIRECT EXAMINATION**

22 **Questions by the Learned Defense Counsel [MR. KAMMEN]:**

23 Q. You told the judge that PTSD symptoms wax and wane;

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1 is that correct?

2 A. Yes.

3 Q. You diagnosed -- it hadn't waxed and waned about
4 insomnia, correct, on March the 19th. That was in your
5 report?

6 A. Correct.

7 Q. You referred to avoidant behavior. You just saw it
8 unrelated to PTSD, correct?

9 A. It -- can I go back to the last question?

10 Q. Isn't that true?

11 A. Repeat the last question.

12 Q. No. He will ask you.

13 You saw avoidant behavior, right? Is that true?

14 A. Yes.

15 Q. You just related it to ----

16 A. Yes.

17 Q. ---- to something other than PTSD, right?

18 A. Yes.

19 Q. Now, as you've testified, in your view, at least
20 during your six months -- and to be fair, in our people's as
21 well -- Mr. Nashiri refused medication, correct?

22 A. Yes.

23 Q. Refused psychotherapy, right?

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1 A. Yes.

2 Q. And somehow quit being symptomatic by March 19th,
3 right?

4 A. He was not complaining of outright anxiety or
5 post-traumatic stress disorder symptoms on March 19th, no.

6 Q. He was not complaining of ----

7 A. Correct.

8 Q. Okay. So it's up to the patient to recognize, hey,
9 I'm having avoidant behavior, Doctor, and tell you about it?
10 Is that what you're telling us?

11 A. No.

12 Q. Okay.

13 A. No, sir.

14 Q. It's certainly not up to the patient to say
15 unsolicited to a person he may or may not trust, I had a
16 flashback, right?

17 A. It ----

18 Q. You've got to ask, don't you?

19 A. You have to ask, but it's up to the patient as well,
20 to report the symptoms that he's experiencing.

21 Q. Right. And are you ----

22 A. I think -- I have to ask -- a role to ask.

23 Q. I'm sorry, I didn't hear ----

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1 A. Yes, I have a role to ask and to inquire, but I rely
2 on them to answer those questions.

3 Q. And as you are -- as we've discussed, and we won't
4 belabor the point, people with PTSD, especially if they're in
5 the presence of somebody where there's not an appropriate
6 trusting relationship, may not be particularly forthcoming;
7 isn't that true?

8 A. It's possible, yes.

9 Q. Okay. Now, there has been testimony by a person
10 considerably more experienced than you that as late as last --
11 this week, in this courtroom, something occurred that caused
12 Mr. Nashiri to have a flashback. That would be important
13 behavior, isn't that correct, to recognize that?

14 A. Sure.

15 Q. Now, you're going to have to answer these questions
16 yes or no because I don't want to get into anything
17 that's ----

18 A. Will do.

19 Q. As we've discussed, you don't know -- and I'm using
20 your words -- the magnitude of whatever hell it was that
21 Mr. Nashiri experienced, do you?

22 ATC [LT DAVIS]: Your Honor, this is ground that we've
23 certainly already covered and beyond the scope of cross.

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1 MJ [COL POHL]: Objection sustained.

2 LDC [MR. KAMMEN]: It goes to the line of questioning on
3 exposure therapy.

4 MJ [COL POHL]: I'll give you a little leeway, but I have
5 heard it five times now, Mr. Kammen. Objection is overruled.

6 You can answer the question.

7 **Questions by the Learned Defense Counsel [MR. KAMMEN]:**

8 Q. And so you can't possibly know under what
9 circumstances it would be appropriate or safe to consider
10 exposure therapy when you don't know the source of the trauma.
11 Isn't that fair to say?

12 A. That's fair, but that's the first part of exposure
13 therapy, is to get better resolution on what the traumas are.

14 Q. Exactly. You would at some point want somebody to
15 build a relationship to find out exactly what the trauma was;
16 isn't that correct?

17 A. It would be helpful, yes.

18 Q. And to document that in some medical report that
19 would be available to all the physicians who saw him; isn't
20 that true? That would be helpful?

21 A. Yes.

22 LDC [MR. KAMMEN]: Thank you. I don't have anything else.

23 MJ [COL POHL]: Trial Counsel, anything further?

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1 ATC [LT DAVIS]: Nothing further, Your Honor.

2 MJ [COL POHL]: Doctor, I want to thank you for your
3 testimony. You are excused. In the course of your medical
4 duties, if you need to discuss your medical opinion with --
5 concerning Mr. Nashiri with other medical professionals in the
6 course of his treatment, you are permitted to do that.
7 However, you are not to discuss your testimony here today,
8 specifically or the fact that you did have to testify here
9 today. Do you understand the distinction I'm drawing there?

10 WIT: Yes, Your Honor. Absolutely.

11 MJ [COL POHL]: Okay. Thank you for your testimony. You
12 are excused.

13 WIT: You're welcome, Your Honor.

14 **[The witness was excused and VTC was terminated.]**

15 MJ [COL POHL]: Before we take a recess, I just want to
16 kind of figure out the way ahead this afternoon. It would
17 seem like we'd hear argument on 205.

18 LDC [MR. KAMMEN]: I don't think so, Your Honor. I think
19 that would have to be addressed in closed session because,
20 remember, you limited Dr. Crosby because of -- there's some --
21 there's a document that was submitted, and you said, well,
22 given the fact I know all of this ----

23 MJ [COL POHL]: Okay. We're talking about closed session

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1 today to do that, then?

2 LDC [MR. KAMMEN]: If we can. I mean ----

3 MJ [COL POHL]: I'm trying to recall, when we did the
4 505(h) hearing, did I address the 205 issue?

5 TC [CDR LOCKHART]: You did, sir, and you indicated that
6 the areas that the defense had provided notice were not
7 relevant for the testimony of Dr. Crosby.

8 MJ [COL POHL]: I think ----

9 TC [CDR LOCKHART]: I don't know if we addressed ----

10 MJ [COL POHL]: I don't have the order sitting in front of
11 me. Hold on a second.

12 Okay. Just to be clear, and maybe it wasn't clear
13 during the 505(h) hearing, and there's an order that's drafted
14 that all of you got, is I said that the information is
15 relevant for the issue under discussion. However, I did not
16 see a need for it to be discussed in a closed session.
17 That ----

18 LDC [MR. KAMMEN]: What do you propose to work around
19 that, if Dr. Crosby was asked about something, she could be
20 directed to paragraphs 1, 2 or 3 so that the subject matter
21 wouldn't necessarily be ----

22 MJ [COL POHL]: Yes. But what I'm saying is for the
23 argument purposes -- and let me make sure that I got this.

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1 For argument purposes, you can refer back to the document that
2 way in an unclassified manner.

3 TC [CDR LOCKHART]: Yes, sir.

4 MJ [COL POHL]: That's what I thought we had decided.

5 TC [CDR LOCKHART]: That was the government's
6 recollection.

7 LDC [MR. KAMMEN]: [Microphone button not pushed; no
8 audio].

9 MJ [COL POHL]: I said the evidence -- I can consider the
10 evidence as part of her opinion, that she had reviewed it, but
11 I don't think the evidence needed to be further argued in open
12 session, or closed session for that matter. Okay.

13 TC [CDR LOCKHART]: That was the government's
14 understanding as well, sir.

15 MJ [COL POHL]: Well, that's what my ruling is, so you
16 can -- do you want to -- do you want to have an argument on
17 the unclassified portion of the basis in your pleading and the
18 testimony you have heard testimony and the testimony of
19 Dr. Crosby?

20 LDC [MR. KAMMEN]: We can. It can wait until
21 whatever ----

22 MJ [COL POHL]: No, I'd like to have it completely -- have
23 it argued today ----

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1 LDC [MR. KAMMEN]: Okay.

2 MJ [COL POHL]: ---- that way you can get a ruling.

3 LDC [MR. KAMMEN]: Okay.

4 MJ [COL POHL]: And then the other issue is -- that I do
5 want to get to, at least, is the 045AA, the scheduling
6 order ----

7 TC [CDR LOCKHART]: Yes, sir.

8 MJ [COL POHL]: ---- for want of a better term. There's a
9 few other odds and ends.

10 TC [CDR LOCKHART]: 266 and 267.

11 LDC [MR. KAMMEN]: Can they wait if we are coming back?

12 MJ [COL POHL]: What I wanted to do is here's my proposal.
13 Since we're now on the schedule change, we're going to leave
14 tomorrow. We could go in effect -- nobody's had lunch, that's
15 the other issue, too, here, is one of my proposals would be
16 that we try to get everything done on the docket, or we just
17 do 205 argument, the 045 discussion, stop there, and then give
18 you an opportunity to meet with your client, give a little
19 more time, and then we'll pick up where we pick up.

20 LDC [MR. KAMMEN]: I prefer that, and ----

21 MJ [COL POHL]: Okay.

22 LDC [MR. KAMMEN]: And if, in fact ----

23 MJ [COL POHL]: We'll do this. We'll take a -- because I

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1 know we've got to talk about 045AA. We'll take a ten-minute
2 break. If we wish -- if either side wishes to be heard
3 further on 205, other than on your brief, just so it's fully
4 argued, we'll do 205, 045AA, and then we'll stop there.

5 The commission is in recess for 15 minutes.

6 [The Military Commission recessed at 1430, 27 April 2014.]

7 [The Military Commission was called to order at 1450, 27 April
8 2015.]

9 MJ [COL POHL]: The court is called to order. All parties
10 are again present. Mr. Nashiri is absent, and General Martins
11 has rejoined us.

12 Mr. Kammen, is Mr. Nashiri's absence voluntary and
13 of his own choice?

14 LDC [MR. KAMMEN]: Yes. He thought he would skip the last
15 part and wait for us to ----

16 MJ [COL POHL]: Okay. But you still want an opportunity
17 to meet with him in the holding cell afterwards?

18 LDC [MR. KAMMEN]: Yes.

19 CP [BG MARTINS]: Your Honor, on that matter of absences,
20 is he actually listening to this in the holding area?

21 MJ [COL POHL]: I don't know.

22 CP [BG MARTINS]: Understanding of the defense? I just
23 want to ----

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1 MJ [COL POHL]: Is there an audio feed into the holding
2 area?

3 LDC [MR. KAMMEN]: I have no idea.

4 CP [BG MARTINS]: I would like to get that on the record
5 if we could, the use of that intermediate approach to
6 participation. Thank you.

7 MJ [COL POHL]: It's your understanding, I suspect,
8 General Martins, that there is that ability to do that.

9 LDC [MR. KAMMEN]: My guess is we probably doesn't want
10 to. He has said he has been awake since 1:00 this morning and
11 wanted to go to sleep, but ----

12 CP [BG MARTINS]: Your Honor, if the feed's turned off and
13 we get that representation, that's fine. I would just like to
14 document when he has been in there and has had the opportunity
15 to listen.

16 MJ [COL POHL]: Okay.

17 CP [BG MARTINS]: I believe the waiver you have counselled
18 him on is sufficient. Thank you.

19 MJ [COL POHL]: Okay. Just note for the record, for those
20 who choose to waive their presence and stay at the camp, they
21 have no opportunity to listen to the audio feed. So I think
22 we can go forward, and when the guard comes back and tells me
23 what they got, he tells me what they got.

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1 Mr. Kammen.

2 LDC [MR. KAMMEN]: Well, I'm not clear where we are. We
3 had understood that the record was complete on 205, and at the
4 recess Lieutenant Davis handed us a series of documents with
5 AE numbers that ----

6 MJ [COL POHL]: Well -- well, if the government wants
7 to -- okay. We take evidence, then we argue.

8 LDC [MR. KAMMEN]: Right.

9 MJ [COL POHL]: Trial Counsel, do you want to introduce
10 evidence on this?

11 ATC [LT DAVIS]: Yes, Your Honor. I have provided the
12 court reporter with several documents -- actually not several,
13 but only four documents.

14 MJ [COL POHL]: Has the defense seen them?

15 ATC [LT DAVIS]: I provided them to the defense, yes, sir.

16 MJ [COL POHL]: Okay. Have they had an opportunity to
17 review them?

18 LDC [MR. KAMMEN]: No, not completely, number one.

19 ATC [LT DAVIS]: Your Honor, this ----

20 LDC [MR. KAMMEN]: And number two, one of them, 205R, is
21 classified, and ----

22 MJ [COL POHL]: Let's do this. Do you want an opportunity
23 to take a look at them real quick?

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1 LDC [MR. KAMMEN]: Well, I mean ----

2 MJ [COL POHL]: What do you want -- they're offering this,
3 and this is the -- you are absolutely right. We introduce
4 evidence, then we argue.

5 LDC [MR. KAMMEN]: Okay.

6 MJ [COL POHL]: Why don't you -- hold on for a second,
7 Mr. Kammen. Okay.

8 LDC [MR. KAMMEN]: Let me -- 205R ----

9 MJ [COL POHL]: Well, government's -- let me hear what the
10 government is offering first, and then I'll see if you have
11 any objection.

12 LDC [MR. KAMMEN]: Sure. Okay.

13 MJ [COL POHL]: Let me see them.

14 ATC [LT DAVIS]: Your Honor, the documents that the
15 government requests that the commission consider are all
16 documents that have been in the defense possession for an
17 extended period of time. The first one, the proposed 205R are
18 the notes that Dr. Crosby supposedly took when she met with
19 the accused. 205S is just one page from the medical record.
20 205T is the medical record I believe from January of 2013 to
21 the present. And 205U is the psych record from approximately
22 January 2013 to the present as well.

23 MJ [COL POHL]: Well ----

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1 ATC [LT DAVIS]: With regard to the classification issue
2 on 205R, the government does not intend to discuss any of the
3 specifics of it at all, simply offers it for Your Honor's
4 consideration.

5 MJ [COL POHL]: One moment.

6 ATC [LT DAVIS]: And, Your Honor, Dr. Crosby's notes were
7 provided by the defense to the government. The government has
8 provided you with all of the notes that the defense provided
9 to the government from her meetings with Mr. Nashiri.

10 MJ [COL POHL]: Mr. Kammen.

11 LDC [MR. KAMMEN]: Well, with respect to 205R, the obvious
12 problem, of course, is that Dr. Crosby was not questioned
13 about the notes by the government. They didn't request
14 permission to question her about the notes. They didn't go
15 into them at all. And so the government wants you to draw
16 conclusions about the notes without giving us the opportunity
17 to have the witness explain them, and that's pretty unfair.

18 MJ [COL POHL]: Trial Counsel -- okay. I'm -- for the
19 sake of this discussion, I'm not getting into classified
20 information.

21 How do I know these are Dr. Crosby's notes from the
22 face of the document?

23 ATC [LT DAVIS]: Your Honor, on the face of the document

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1 it is not immediately apparent. If the defense has any
2 suggestion that those are anything but those notes, then they
3 can certainly object to them, but the government is
4 representing to you ----

5 MJ [COL POHL]: Well, maybe I've got something confused
6 here, but doesn't the proponent of evidence have the
7 responsibility to lay the foundation, not the opponent to show
8 lack of foundation?

9 ATC [LT DAVIS]: Yes, Your Honor.

10 MJ [COL POHL]: You're proposing me to consider 205R ----

11 ATC [LT DAVIS]: Yes, sir.

12 MJ [COL POHL]: ---- without any foundation except your
13 word that these are Dr. Crosby's notes? And I'm not doubting
14 your word, okay, but you're not a witness. You didn't ask
15 Dr. Crosby about this, that these are her notes, and there's a
16 bunch of pen-and-ink scratchings. I'm not going to read
17 them. I glanced at them, but I don't want to read them.

18 ATC [LT DAVIS]: Yes, Your Honor.

19 MJ [COL POHL]: Have you met the minimum foundational
20 requirements to say that these are what they say they are?

21 ATC [LT DAVIS]: Your Honor, the government sees these as
22 no different to any attachment that's made on a motion to an
23 interlocutory issue.

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1 MJ [COL POHL]: Do you know what happens when they're on
2 attachments? I will turn to the other side and say, do you
3 object me to considering this?

4 ATC [LT DAVIS]: And consider it asked ----

5 MJ [COL POHL]: And they're objecting. They're objecting.
6 Okay. Okay.

7 Is it fair to say, Mr. Kammen, you're objecting?

8 LDC [MR. KAMMEN]: Yeah. Given.

9 MJ [COL POHL]: That's fine. That's all it is. If you
10 use attachments, it's got to be agreed to by both sides,
11 otherwise, you have the normal foundational requirements. I
12 know it's an interlocutory matter and the rules of evidence
13 may not strictly apply, but there's still something I have to
14 know these came from Dr. Crosby other than your -- they're
15 not -- it's your burden to do it.

16 ATC [LT DAVIS]: Yes, Your Honor. Understood.

17 MJ [COL POHL]: Okay. So objection to 205R is sustained.
18 Since it's an Appellate Exhibit, it will still remain in the
19 record.

20 LDC [MR. KAMMEN]: Let me look at the others.

21 MJ [COL POHL]: Okay. Well, let me ask -- okay. Yeah.
22 It's -- the classification is on top.

23 Mr. Kammen.

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1 LDC [MR. KAMMEN]: Yes, sir.

2 MJ [COL POHL]: The other three?

3 LDC [MR. KAMMEN]: I don't have any objection -- well, let
4 me say this, I don't doubt that 205S is a progress note made
5 on June the -- well, it's either June 11th of -- no, it would
6 be 2nd of June 2011, but it wasn't identified by any witness,
7 but -- actually, we don't object to that.

8 MJ [COL POHL]: Okay.

9 LDC [MR. KAMMEN]: Let me look at 205U.

10 Your Honor, the first five or six pages again, I
11 don't know where they came from. The balance of it appears to
12 be -- of 205U appears to be a series of psychiatric evaluation
13 notes taken by Dr. Redact's predecessor, and then completing
14 through Dr. Redact's ----

15 MJ [COL POHL]: Just so I understand where you are at, the
16 first Bates number, I'm just going to the last -- starts at
17 98 ----

18 LDC [MR. KAMMEN]: Yeah.

19 MJ [COL POHL]: ---- 97, 96, 95, and after that, it goes
20 from 93, and it's from 93 on back that you are talking,
21 correct?

22 LDC [MR. KAMMEN]: Well, one's not ----

23 MJ [COL POHL]: Where it says "mental health" ----

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1 LDC [MR. KAMMEN]: There's 93, and then there's one
2 without a Bates number.

3 MJ [COL POHL]: Yeah, I know. It's after 93, they end up
4 with some without Bates stamps and starting out of order.

5 LDC [MR. KAMMEN]: Starting on Bates number 691, those
6 clearly -- I referred to enough of those that we don't have
7 any objection, and I just would like to look at -- Your Honor,
8 I think we have no objections to 205U.

9 MJ [COL POHL]: Okay.

10 LDC [MR. KAMMEN]: We do object, as not properly
11 identified, 205T. I just have no idea what those are, who
12 created them, or what they're about.

13 MJ [COL POHL]: Okay. But there's -- okay. You're saying
14 who created them ----

15 LDC [MR. KAMMEN]: I just don't ----

16 MJ [COL POHL]: ---- not to who they refer to, though?

17 LDC [MR. KAMMEN]: I don't doubt they refer to
18 Mr. Nashiri ----

19 MJ [COL POHL]: Yeah.

20 LDC [MR. KAMMEN]: ---- but there's just no foundation.
21 And I don't know how they fit -- I can understand how 205S and
22 205U fit in the case, and those were referred to close enough
23 in the psychiatrist's testimony that I'm willing not to be

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1 hypertechnical. There's nothing in 205T that I can see. It
2 doesn't look like it was done by a psychiatrist. It's not
3 clear who did it.

4 MJ [COL POHL]: Just to be clear, of course it does
5 discuss various ailments that he apparently has.

6 LDC [MR. KAMMEN]: Perhaps, but, I mean, again, this is a
7 lot of material to digest in just a few ----

8 MJ [COL POHL]: No. I understand. That's why it should
9 have been given to you a while ago so you had an
10 opportunity -- as I always say, if you need time, Mr. Kammen,
11 there's no shot clock in court. It appears, just looking at
12 it real quickly, it talks about ----

13 LDC [MR. KAMMEN]: If you want to defer this argument in
14 light of this, but I don't want to be in a position of arguing
15 it and then them standing up and saying, well, what about --
16 you know, this line in this, and ----

17 MJ [COL POHL]: Trial Counsel.

18 TC [CDR LOCKHART]: I was just going to suggest that if
19 you wanted to take up -- we still have two other motions in
20 addition to the 045, that we could take up now and Mr. Kammen
21 would have time ----

22 MJ [COL POHL]: No, I want to finish 205. You really --
23 you really want to put in 205T?

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1 ATC [LT DAVIS]: Yes, Your Honor. This is something that
2 the defense has had in their possession for months.

3 MJ [COL POHL]: Okay. Okay. I hear this from both sides.
4 Let's make it clear. Have it in their possession may be a
5 nice response to say we didn't get discovery, but not
6 necessarily a nice response that, well, they know it's in
7 their possession and therefore they know we're going to use
8 it. I hear this from both sides occasionally, is that the
9 government ought to be on notice because they gave us this,
10 and they know we're going to file this motion on it.

11 So until you introduce a piece of evidence, there's
12 no reason why the other side should assume you're going to use
13 it. Do you understand what I'm saying? So the fact that --
14 one is a discovery obligation, I got that, but the normal way
15 of doing business, this motion has been sitting here for --
16 all week, and if you were going to introduce this, it wouldn't
17 have been difficult to hand it to them yesterday; wouldn't it
18 have been?

19 ATC [LT DAVIS]: Well, Your Honor, until we -- we needed
20 to finish the testimony to determine whether that was going to
21 be something that we were going to offer. I understand the
22 court's point. But as far as this particular document, it's
23 clear on its face as to what it is. As far as the government

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