

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

<p><b>UNITED STATES OF AMERICA</b></p> <p><b>v.</b></p> <p><b>KHALID SHAIKH MOHAMMAD, WALID MUHAMMAD SALIH MUBARAK BIN ‘ATTASH, RAMZI BIN AL SHIBH, ALI ABDUL AZIZ ALI, MUSTAFA AHMED ADAM AL HAWSAWI</b></p>	<p><b>AE 502KK</b></p> <p><b>RULING</b></p> <p>Regarding the Parties’ Proposed Witnesses for the Hearing on Personal Jurisdiction</p> <p><b>27 October 2017</b></p>
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1. **Background.** On 31 May 2017, the Commission directed a hearing as to whether personal jurisdiction existed over Mr. Hawsawi and Mr. Ali (a.k.a. al Baluchi), and in furtherance thereof directed those two Accused and the Government to submit witness lists by dates certain.<sup>1</sup> These witness lists were subsequently filed.<sup>2</sup> During the October 2017 hearing session, the parties argued before the Commission as to the propriety of their proposed witnesses.

2. **Ruling.** Having considered the parties’ witness lists, and all other relevant pleadings and argument, the Commission rules as follows:

a. Mr. Hawsawi’s request to call Professor Sean Watts as an expert witness is

**GRANTED** as contemplated by Military Commission Rule of Evidence (M.C.R.E.) 201A(b).<sup>3</sup>

b. The Government’s request to call the four witnesses specified in its updated witness list<sup>4</sup> is **GRANTED**.

<sup>1</sup> AE 502I, Ruling: Defense Motion to Dismiss for Lack of Personal Jurisdiction due to the Absence of Hostilities, paras. 6.a-b, dated 31 May 2017.

<sup>2</sup> AE 502L (MAH), Mr. al Hawsawi’s Witness List for the August 2017 Hearings, filed 21 June 2017; AE 502J (AAA), Mr. al Baluchi’s List of Potential Witnesses For Personal Jurisdiction Hearing, filed 26 June 2017; and AE 502K (GOV), Government Notice Of Witnesses Demonstrating Personal Jurisdiction over the Accused, filed 21 June 2017. Various supplemental and/or responsive filings to these lists were also received and appropriately considered, but need not be specifically identified here for purposes of this ruling unless otherwise noted.

<sup>3</sup> The Commission further notes, however, that M.C.R.E. 201A(b) does not require the receipt of such testimony—stating instead that, in determining questions of foreign or international law, to include the law of war, “[t]he military judge . . . may consider . . . testimony of . . . expert witnesses.” Accordingly, this ruling will not be construed as *carte blanche* approval of such expert testimony. Any similar future requests will be separately considered on their individual merits.

c. The proponent parties have made a sufficient showing that the testimony of the witnesses referenced in subparagraphs 2.a-b, above, will be relevant and necessary to matters at issue before the Commission in conducting the hearing regarding personal jurisdiction.

d. Ruling as to any of Mr. Ali's proposed witnesses is **DEFERRED** pending further consideration by the Commission.

So **ORDERED** this 27th day of October, 2017.

//s//  
JAMES L. POHL  
COL, JA, USA  
Military Judge

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<sup>4</sup> AE 502X (GOV), Government Updated Notice Of Witnesses Demonstrating Personal Jurisdiction over the Accused, filed 28 September 2017.