

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

UNITED STATES OF AMERICA v. KHALID SHAIKH MOHAMMAD, WALID MUHAMMAD SALIH MUBARAK BIN ‘ATTASH, RAMZI BIN AL SHIBH, ALI ABDUL AZIZ ALI, MUSTAFA AHMED ADAM AL HAWSAWI	AE 611R RULING Pursuant to Military Commission Rule of Evidence 505(h) 29 January 2019
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1. On 29 January 2019, upon motions of Mr. Ali (a.k.a. al Baluchi)¹ and the Government,² the Commission held an in camera hearing pursuant to M.C.R.E. 505(h) to determine the use, relevance, or admissibility of classified information described in eight (8) M.C.R.E. 505(g)(1)(A) notices filed by the Defense and three (3) M.C.R.E. 505(h)(2)(A) notices filed by the Government.

2. This ruling addresses only the portion of the M.C.R.E. 505(h) hearing regarding the use, relevance, or admissibility of the classified information noticed by the Government in AE 616E (GOV)³ and AE 616H (GOV).⁴ The classified information addressed in these notices is intended for use in AE 616 for (1) oral argument regarding whether the testimony of the witness called “the Interpreter” should be taken in open or closed session or a combination of both; (2) use by the parties when taking the Interpreter’s testimony; (3) use in any future proceeding involving the underlying issues in AE 350 (GOV).⁵

¹ AE 611M (AAA), Mr. al Baluchi’s Motion for 505(h) Hearing, filed 22 January 2019.

² AE 611O (GOV), Government Response to Mr. Ali’s Motion for an M.C.R.E. 505(h) Hearing, filed 25 January 2019.

³ AE 616E (GOV), Government Notice Pursuant to M.C.R.E. 505(h)(2)(A), filed 25 January 2019.

⁴ AE 616H (GOV), Government Notice Pursuant to M.C.R.E. 505(h)(2)(A), filed 28 January 2019.

⁵ See AE 350 (GOV), Government Unclassified Notice of Classified Filing, filed 10 February 2015, *et. seq.*

3. Counsel for the Government and for all Accused were present at the M.C.R.E. 505(h) hearing. The Government articulated the scope of classified information they intended to elicit that was noticed in AE 616E (GOV) and AE 616H (GOV). The Defense did not object to the relevance of the information.

4. **Ruling.** The classified information the Government seeks to disclose in AE 616E (GOV) and AE 616H (GOV) is relevant for a fair determination of the issues before the Commission for: (1) oral argument regarding whether the testimony by the Interpreter should be taken in open or closed session or a combination of both; (2) use by the parties when taking the Interpreter's testimony; and (3) use in any future proceeding involving the underlying issues in AE 350 (GOV).

So **ORDERED** this 29th day of January, 2019.

//s//
K. A. PARRELLA
Colonel, U. S. Marine Corps
Military Judge