

**MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA**

UNITED STATES OF AMERICA v. KHALID SHAIKH MOHAMMAD; WALID MUHAMMAD SALIH MUBARAK BIN ‘ATTASH; RAMZI BINALSHIBH; ALI ABDUL AZIZ ALI; MUSTAFA AHMED ADAM AL HAWSAWI	AE 709G (GOV) Government Notice Of Correction to the Record With Regard to Discovery Produced Pursuant to AE 709F, Order, Government Motion to Request Substitutions and Other Relief Regarding Classified Discovery 30 December 2021
--	--

1. Timeliness

This Notice is timely filed.

2. Notice

The Prosecution hereby notifies the Commission and Parties that AE 709D (GOV) and AE 709D (GOV) (CORRECTED COPY) contained an error with regard to the specific forced-cell extraction (FCE) videos the Prosecution submitted to the Commission for its review. Specifically, these filings mistakenly stated there were three FCE videos of Mr. Binalshibh for which the Prosecution required relief from the Commission pursuant to Military Commission Rule of Evidence 505(f) in order to produce them to the Defense. The correct statement is that there were two FCE videos of Mr. Binalshibh and one FCE video of Mr. Bin ‘Attash submitted to the Commission for relief in AE 709D (GOV). Notably, the Prosecution submitted the correct FCE videos to the Commission and provided the correct FCE videos to the correct defense teams in June 2020, so this mistake did not materially affect discovery to any Accused.

In addition, the Prosecution’s proposed order in AE 709D (GOV) also mistakenly stated the three videos requiring Commission relief were of Mr. Binalshibh and Mr. Hawsawi, rather than Mr. Bin ‘Attash. As a result, the Commission’s combined order in AE 709F approving the requested protections to the FCE videos (provided by the Prosecution in AE 709D (GOV) and

AE 709D (GOV Sup)) erroneously stated that four videos—three of Mr. Binalshibh and one of Mr. Hawsawi—were adequate substitutes for the original videos. *See* AE 709F at 1–2. The Prosecution notes that the correct statement should be three FCE videos of Mr. Binalshibh and one of Mr. Bin ‘Attash. The Prosecution provides this notice only to correct the filings in the record and regrets its error in this instance. The appropriate defense teams have already received the correct FCE videos in discovery; no correction is necessary to any actual videos provided to any Accused.

3. Attachments

A. Certificate of Service, dated 30 December 2021.

Respectfully submitted,

//s//

Clay Trivett
Managing Trial Counsel

Christopher M. Dykstra
Deputy Managing Trial Counsel

Jackson T. Hall
Major, USAF
Assistant Trial Counsel

ATTACHMENT A

CERTIFICATE OF SERVICE

I certify that on the 30th day of December 2021, I filed AE 709G (GOV), Government Notice Of Correction to the Record With Regard to Discovery Produced Pursuant to AE 709F, Order, Government Motion to Request Substitutions and Other Relief Regarding Classified Discovery, with the Office of Military Commissions Trial Judiciary and I served a copy on counsel of record.

//s//

Christopher M. Dykstra
Deputy Managing Trial Counsel
Office of the Chief Prosecutor
Office of Military Commissions