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1   **[The R.M.C. 803 session was called to order at 0833, 17 June 2024.]**

2           MJ [COL PRITCHARD]: This R.M.C. 803 session is called to  
3 order.

4           The parties and Mr. Hadi are present and the members are  
5 absent.

6           During the recess the commission held an R.M.C. 802 e-mail  
7 conference with counsel in which the commission granted a defense  
8 request to provide the members a written English-language version of  
9 the accused's unsworn statement as a follow-along in case the members  
10 have difficulty understanding the accused.

11           The defense also indicated that some portion of the unsworn  
12 might be in Arabic and require translation. The government was  
13 concerned that the members might be confused if the accused deviated  
14 from the written document or an in-court translation was different  
15 than the written document.

16           Counsel, does that accurately summarize the 802?

17           TC [MR. SHORT]: It does, Your Honor. But I just want to be  
18 clear that it was -- the concern was if he's speaking in Arabic, that  
19 the document with the members would be confusing. No problem, as  
20 Ms. Hensler clarified in her final e-mail, regarding a English -- if  
21 he's speaking in English and reading it and the English version being  
22 there.

23           MJ [COL PRITCHARD]: Okay.

1 LDC [MS. HENSLER]: Yes, that's all correct, Your Honor.

2 MJ [COL PRITCHARD]: Okay. Defense, if the accused does speak  
3 in Arabic, is there an identified point or points at which he would  
4 do that?

5 LDC [MS. HENSLER]: Not at this time. However, when we  
6 discuss the exhibits, there are about, I think, five exhibits we'll  
7 be discussing throughout in question and answer, and those are not  
8 scripted. As we have practiced them, he has not used Arabic, but we  
9 just wanted to flag that as a potential issue.

10 MJ [COL PRITCHARD]: Okay. I'm just asking just so the  
11 interpreters might know when they're called upon to do something.  
12 Okay.

13 And, Defense, has the written unsworn been marked as a  
14 defense exhibit for identification?

15 LDC [MS. HENSLER]: Yes, it has. It's been marked as Defense  
16 Exhibit RRRR.

17 MJ [COL PRITCHARD]: Okay. Thank you.

18 **[Pause.]**

19 MJ [COL PRITCHARD]: When we call the members, I intend to  
20 first ask whether they have reviewed all the defense evidence, then  
21 instruct them on the defense requested judicial notice, then tell the  
22 members the accused intends to offer an unsworn statement and give  
23 the unsworn statement instruction, then turn it over to the defense.

1 Are there any issues with that procedure?

2 TC [MR. SHORT]: No, Your Honor.

3 LDC [MS. HENSLER]: No, Your Honor. I have flagged for Your  
4 Honor's staff the issue of the need to move Mr. Al-Tamir's  
5 therapeutic chair from one location to the other. That may take a  
6 few minutes.

7 MJ [COL PRITCHARD]: Okay. Well, we'll do that before the  
8 members come in, unless we think we want to wait to do that at some  
9 point. Maybe after I give them the instructions and talk to them  
10 about -- do you want to just do that then?

11 LDC [MS. HENSLER]: Sure, Your Honor.

12 MJ [COL PRITCHARD]: Okay. That's fine.

13 Is there anything else we need to discuss before calling the  
14 members?

15 TC [MR. SHORT]: No, Your Honor.

16 LDC [MS. HENSLER]: Nothing from the defense, Your Honor.

17 MJ [COL PRITCHARD]: Bailiff, please call the members.

18 **[Counsel conferred.]**

19 **[The military commissions was called to order at 0840, 17 June 2024.]**

20 **[Members entered the courtroom.]**

21 MJ [COL PRITCHARD]: The commission is called to order.

22 All parties, the accused, and the members are present as  
23 before.

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1           Mr. President, did all the members finish reviewing all the  
2 defense evidence?

3           PRESIDENT: We did, Your Honor. Two of the members had some  
4 questions I've written down here -- or they've written down here.

5           MJ [COL PRITCHARD]: Okay. Just fold that document and hand  
6 it to the bailiff, who will hand it to the court reporter.

7           **[Pause.]**

8           MJ [COL PRITCHARD]: I have Appellate Exhibits 289 and 290.

9           **[Pause.]**

10          MJ [COL PRITCHARD]: Okay. Members, let me take this up real  
11 quick with counsel, and then we'll get to answering these questions.  
12 So I don't think you need to go all the way back to the deliberation  
13 room. Just if you will exit, please, for a couple of moments.

14          **[Members withdrew from the courtroom.]**

15          **[The R.M.C. 803 session was called to order at 0843, 17 June 2024.]**

16          MJ [COL PRITCHARD]: Bailiff, do me a favor. Hand these to  
17 the government counsel there, who can then pass them on to the  
18 defense.

19          Counsel, basically these were questions as if there are  
20 going to be other witnesses, like Dr. McCafferty, and the outstanding  
21 questions. Particularly -- actually, both of them, I think, were in  
22 reference to Dr. McCafferty's declaration.

23          But I intend to just tell them they have the evidence that

1 they have. They're not going to get these questions answered,  
2 so -- but you tell me if you think there's a different way you want  
3 me to handle that.

4 **[Counsel conferred.]**

5 LDC [MS. HENSLER]: Your Honor, the course ----

6 MJ [COL PRITCHARD]: I'll start with you.

7 LDC [MS. HENSLER]: The course of action you proposed is fine  
8 with the defense.

9 MJ [COL PRITCHARD]: Essentially tell them they have the  
10 evidence that they're going to get, that we're not recalling  
11 Dr. McCafferty, so they just need to rely on what they already have?

12 LDC [MS. HENSLER]: That's fine, Your Honor.

13 TC [MR. SHORT]: Yes, Your Honor.

14 MJ [COL PRITCHARD]: Okay. Please recall the members.

15 **[The military commission was called to order at 0847, 17 June 2024.]**

16 **[Members entered the courtroom.]**

17 MJ [COL PRITCHARD]: The commission is called to order.

18 The members have returned. All other parties and the  
19 accused are still present.

20 Members, to answer the two panel members' questions, you  
21 have the evidence that you have. Dr. McCafferty is not going to be  
22 called as a witness, so you will not answer the questions that you  
23 had on your forms.

1           There may be other evidence that comes in, but unlikely that  
2   there will be other witness testimony. Not impossible, but unlikely.  
3   But even if there were, it would be unlikely that it would answer  
4   those questions.

5           So, bottom line, you have the evidence that you have and you  
6   can rely on that.

7           Any questions about that?

8           Apparently not.

9           Members, in addition to the evidence the defense has  
10   presented, I have taken judicial notice of the following facts which  
11   you will have in writing during your deliberations:

12           One, the U.S. detained the accused for approximately 15  
13   years and eight months prior to his entry of pleas in this  
14   commission;

15           Two, a term in the pretrial agreement between the accused  
16   and the convening authority required the accused to cooperate fully  
17   and truthfully with U.S. authorities;

18           Three, in 2023, the accused met with U.S. authorities for 56  
19   hours over the course of three weeks;

20           And four, the government is satisfied with the accused's  
21   cooperation by meeting with U.S. authorities.

22           You are permitted to recognize and consider those facts  
23   without further proof. You should consider those facts as evidence

1 with all other evidence in the case.

2 You may, but are not required to, accept as conclusive any  
3 matter that I have judicially noticed.

4 Now, the accused intends to provide an unsworn statement.  
5 An unsworn statement is an authorized means for an accused to bring  
6 information to the attention of the commission and must be given  
7 appropriate consideration. You will not draw any adverse inference  
8 from the fact that the accused has elected to make a statement which  
9 is not under oath.

10 A person making an unsworn statement cannot be  
11 cross-examined by the prosecution or defense or questioned by the  
12 panel members or me. However, evidence may be offered to rebut  
13 statements of fact contained in unsworn statements.

14 The weight and significance to be attached to an unsworn  
15 statement rests within the sound discretion of each of you. You may  
16 consider that the statement is not under oath, its inherent  
17 probability or improbability, whether it is supported or contradicted  
18 by evidence in the case, as well as any other matter that may have a  
19 bearing on its credibility.

20 In weighing an unsworn statement, you are expected to use  
21 your common sense and your knowledge of human nature.

22 You will have a written English-language version of the  
23 accused's unsworn statement. The accused intends to give his unsworn

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1 statement in English, but may also speak in Arabic, which will be  
2 translated. The written version you have is to aid you in following  
3 along and understanding the accused's oral unsworn, but you should  
4 pay primary attention to what the accused says orally and any oral  
5 translation.

6 Are there any questions about that?

7 Apparently not.

8 Defense, are you prepared to publish the written unsworn  
9 while Mr. Hadi moves to the table?

10 LDC [MS. HENSLER]: Yes, we are, Your Honor.

11 MJ [COL PRITCHARD]: Okay. You can provide that to the  
12 bailiff. And, Members, each of you will have a copy of this.

13 **[Pause.]**

14 MJ [COL PRITCHARD]: Defense, you may proceed.

15 **[Pause.]**

16 ACC [MR. HADI]: **[Speaking in English]** Good morning, sir. My  
17 name is Nashwan Abdulrazzaq Al-Tamir. Thank you for taking  
18 my -- taking your time to listen to me this morning. I also ask for  
19 your patience with my slow speaking. English -- English is not my  
20 first language. It's maybe the third.

21 My name is Nashwan, but I am also called Hadi. In our  
22 culture, we use kunyas to add more respect, like mister or miss, or  
23 for security reasons, or for both.



1 I want to start by saying that I wish I could stand up while  
2 talking to you to show you respect. I am sorry for stretching out or  
3 taking breaks or walking around. It's only because I have problems  
4 in my spine. I do not tell you for sympathy, really. I am only  
5 telling you so you understand why I am doing this -- doing these  
6 things during the hearing.

7 I am here today because I plead guilty. I do not hide from  
8 responsibility. I feel it. It's harder now than in previous years.  
9 If I think about that hurt, I cannot take myself out of the  
10 moment -- of that moment. But I try very hard to not to be sad, to  
11 find the good things, the hopeful things.

12 To the victims, I want to know you -- I want to -- I want  
13 you to know that I listened to you. Really, I heard you. I ask for  
14 help from my God, the merciful, and then from you. I must try to  
15 tell you as much as I can tell. Thank you for helping my -- for  
16 helping me by letting me talk to you.

17 I know what it is to watch another soldier die or get  
18 wounded. I know this feeling, and I am sorry. I know you suffered  
19 too much. I know what it is to be a father of a son, to lose your  
20 son. Your sadness must be overwhelming. I am sorry.

21 Here today I am a civilian. I am going to try to tell you  
22 about my life today, just to explain it so you can understand. I ask  
23 your forgiveness, but I know I am not entitled to it.

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1           The name "Tamir" means dates, like the fruit. I come from  
2   an old family in Mosul, Iraq, a big family. My great-grandfather  
3   built a successful business that is passed on from generation to  
4   generation.

5           My family were not rich, but we were a known and respected  
6   family. My father was a teacher and later became a principal at my  
7   school. My uncle even studied in the U.K. and became an eye surgeon.

8           We were raised at home in the traditional Mosul way as  
9   traditional Muslims. My father was religious and maintained  
10   traditions like everyone, but he was an open person. He prayed daily  
11   and did not drink alcohol or smoke cigarettes.

12           He raised me to honor tradition and have an honest manner.  
13   That was the most important thing, to respect others, to respect  
14   myself.

15           This was a long time ago, early 1960s. The city was  
16   peaceful then. I was the oldest child, and I grew up in my  
17   grandfather home in the old city of Mosul.

18           LDC [MS. HENSLER]: The defense now publishes Defense  
19   Exhibit PP from the ELMO and asks that it be displayed to the panel  
20   and to the gallery.

21           MJ [COL PRITCHARD]: Go ahead.

22           LDC [MS. HENSLER]: Mr. Al-Tamir, who's in this picture?

23           ACC [MR. HADI]: **[Speaking in English]** This is me, maybe

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1 1970, with my youngest ----

2 LDC [MS. HENSLER]: Are you with a sibling?

3 ACC [MR. HADI]: **[Speaking in English]** With my youngest

4 sister, Mona. She was, I think, seven, eight months old.

5 LDC [MS. HENSLER]: Where was this photo taken?

6 ACC [MR. HADI]: **[Speaking in English]** It was taken in my

7 grandmother house, old -- in the old -- in the old city of Mosul.

8 LDC [MS. HENSLER]: Was this close to where you grew up?

9 ACC [MR. HADI]: **[Speaking in English]** I grew up between this

10 house and with my -- in my grandfather house, both in Mosul

11 city -- in the old Mosul city, like 100 meter far from each other.

12 LDC [MS. HENSLER]: Thank you.

13 Court reporter, please unpublish the exhibit.

14 ACC [MR. HADI]: **[Speaking in English]** There were many homes

15 tightly together, Muslims, Christians, Yazidis, and others all living

16 close together among a few of the oldest mosques and oldest Christian

17 church in the world.

18 The Pope even visited Iraq recently less than 100 meters

19 from our house in the old city. My Christian neighbor, a midwife,

20 delivered me when I was born.

21 All of the Middle East was like this when I was a child. It

22 was not perfect in Iraq back then but it was peaceful.

23 The most important thing in our culture: Do not want to

1 harm the family name. We always avoided politics. In back days in  
2 our business, my father as a teacher, uncle as a doctor, we could  
3 advance without being in the Ba'ath Party. This was before Saddam.

4 But things changed when I was a teenager. Saddam was  
5 becoming powerful. It was a very hard and brutal regime from the  
6 beginning.

7 Students of the Ba'ath Party got priority at school, better  
8 grades, and even had priority in the soccer team. This taught me  
9 from when I was small: Ba'ath is not fair.

10 There was a Ba'ath policy for everyone to spy on everyone.  
11 Neighbors spying on neighbors, one member of the family against the  
12 other members, students in the school, everyone. They would force  
13 people to spy by using their weak points, harassment, and in  
14 other -- and in other ways.

15 My life should have been different. My father was an  
16 educator. I wanted to be an engineer.

17 At 17, after finishing high school and preparing for  
18 college, I made a bad choice. I took an exam and failed on purpose.  
19 I thought that would be -- that would mean I could do the year  
20 again -- over again, but it didn't.

21 My overall score just went down. I could not go to  
22 the -- to university. If I had, I would have been released from the  
23 military to work in the factories in Iraq with the other engineers.

1           And instead, I went to an engineering institute, a lesser  
2 degree, for two years. My whole future took a different direction  
3 just like that.

4           After I completed the institute, I was drafted into the  
5 Iraqi Army in 1979, late 1979, at the beginning of the Iran-Iraq War.  
6 I was not allowed to be an officer because I refused to join the  
7 Ba'ath Party.

8           After four years, the military moved me to the 444 Brigade,  
9 a special unit for people they did not trust, like Kurds or Iraqis  
10 from Iranian descent or others or people they did not trust, like me,  
11 away from the front lines.

12           The war finally ended on August 8th, 1988. Hundreds of  
13 thousands of us were all released from the Army at around the same  
14 time. There were no jobs when we get home -- when we got home. I  
15 used my savings to buy a taxicab.

16           LDC [MS. HENSLER]: The defense now publishes Defense  
17 Exhibit MM from the ELMO and asks that it be displayed to the panel  
18 and to the gallery.

19           Mr. Al-Tamir, can you tell the panel who's in this picture?

20           ACC [MR. HADI]: **[Speaking in English]** This is me, I think  
21 the time I have been released from the Army in old city -- in the old  
22 Mosul city.

23           LDC [MS. HENSLER]: Is that your taxicab?

1 ACC [MR. HADI]: **[Speaking in English]** This is my first  
2 taxicab, yes.

3 LDC [MS. HENSLER]: Where in Mosul was this photo taken?

4 ACC [MR. HADI]: **[Speaking in English]** Near the old -- we  
5 called it old bridge. It had been being built from -- with Britain's  
6 back days.

7 LDC [MS. HENSLER]: Court reporter, please unpublish the  
8 exhibit.

9 ACC [MR. HADI]: **[Speaking in English]:** I drove my taxi all  
10 over Iraq to make money. I would take construction jobs  
11 to -- whenever I could find them. I was in my late 20s. I wanted to  
12 get married and start a family, but I could not find a wife. I even  
13 started to buy items for my future home. My mother kept those things  
14 after I left Iraq waiting for me for many years.

15 Then Saddam decided to invade Kuwait. You called it Desert  
16 Storm. I got drafted again. I was more than 30. I refused to go  
17 again. The war was bad for Iraq and the region.

18 I start to talk about political solutions with my friends.  
19 Me and my friends, still we were young, naive, angry, thinking we  
20 know everything. We want change. We wrote banners and flyers  
21 against Ba'ath Party. It went very badly for us.

22 Eventually, a friend is arrested. Next night they come  
23 for -- to our house for me. I escape out the back, so they took my

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1 father instead.

2 LDC [MS. HENSLER]: The defense now publishes Defense Exhibit  
3 OO from the ELMO and asks that it be displayed to the panel and to  
4 the gallery.

5 Mr. Al-Tamir, can you please tell the panel who's in this  
6 photograph.

7 ACC [MR. HADI]: **[Speaking in English]** This is my father  
8 around 1980.

9 LDC [MS. HENSLER]: Who is he holding?

10 ACC [MR. HADI]: **[Speaking in English]** He hold my youngest  
11 brother, Soffan.

12 LDC [MS. HENSLER]: How old was Soffan?

13 ACC [MR. HADI]: **[Speaking in English]** Here, Soffan was like  
14 two years old.

15 LDC [MS. HENSLER]: How old was your father at the time the  
16 photo was taken?

17 ACC [MR. HADI]: **[Speaking in English]** In his early 50s.

18 LDC [MS. HENSLER]: So how old was he -- he was over ten years  
19 older when he was arrested?

20 ACC [MR. HADI]: **[Speaking in English]** He was in his 60s.

21 LDC [MS. HENSLER]: Court reporter, please unpublish the  
22 exhibit.

23 ACC [MR. HADI]: **[Speaking in English]:** They took my father

1 to the central security prison. Because of me, my father is in jail.  
2 My mother is scared. My brothers and sisters are scared. For months  
3 I am running and hiding, mostly in the Kurdish part of Iraq. It was  
4 very hard.

5 No one knew what they were doing to my father in prison.  
6 After two months they released him. I sneak home to check on him.  
7 That was the last time I saw my family, my mother, my father, and my  
8 sister and brothers.

9 I know if I stay, people around me will suffer. The best  
10 solution was to protect my family and leave, so I did. But security  
11 people keep watching my family and asking about me for years after.  
12 Later one of my close friends was executed.

13 I went to Jordan first. At the main square in Amman, the  
14 capital, I find thousands of other Iraqis like me looking for work.  
15 In my big family, always something to do, someone to visit, errands  
16 to run, project to help with. Now, for the first time, I feel  
17 lost -- I felt lost and alone, just searching, trying to find  
18 anything good.

19 One easy thing in Jordan was to go to Afghanistan to join  
20 the mujahideen, famous freedom fighters fighting the Soviets. It  
21 seems like everyone was supporting jihad against the communists.  
22 Even the Americans supported it. Everyone hated the Soviets.

23 I flew to Pakistan and made my -- and made my way into



1 Afghanistan. Before I got there, I heard jihad is big, good, is  
2 unity, all fighting together, a beautiful picture. When I got  
3 to -- when I get to reality, I find more groups, more politics. I  
4 arrive -- I arrive as the mujahideen take Kabul, but now those groups  
5 start to fight each other for control.

6 After some time working with one group, I start to see  
7 clearly that this fight was not for Islam or for good. Most were  
8 fighting for power for themselves.

9 I missed my family. I wanted to go back, but I couldn't.  
10 Saddam was still in power. It was not possible.

11 I did like Afghanistan. Life is simple there, pure. Afghan  
12 people usually try to help. One of my great-grandmothers was Afghan,  
13 so I was always a little at home there.

14 I decided to go to Pakistan, trying to get a job, take time  
15 to think. I met a group there training the Tajik people to fight  
16 communists there in Tajikistan. They were looking for help. I put  
17 my hand up to help right away.

18 We set up training camp near Khost City at the -- at the  
19 Pakistan-Afghanistan border. We only trained a few groups of  
20 fighters. They never even made it to the battlefield because a peace  
21 agreement was signed in Tajikistan, and we ended that project.

22 Then I went back to Pakistan. I wanted to try to start a  
23 family. I was doing some trading, honey, perfumes, goods, things you

1 could buy cheap in Afghanistan and sell for much more in the Gulf  
2 States.

3 Also, now I had learned the Dari language from the local  
4 Farsi so I could try to find a wife with local families.

5 My wife and her family were refugees from Kabul. Her father  
6 and mother were both teachers. Maybe they liked that my father was a  
7 teacher and a headmaster also.

8 We married in April 1997, and I had some of the best years  
9 of my life with my beloved two boys and two girls and my sweetheart,  
10 their mother. My wife Sonia and I moved to Kabul right away. I  
11 think I find a place, I can make something good for myself, for my  
12 family, for Afghanistan, my second home.

13 I first met the Taliban in Khost during the Tajik project.  
14 I try to explain the Taliban like this: After the fall of Kabul,  
15 there was too much fighting between the mujahideen groups. After 15  
16 years of fighting the Russians and the communists, what was the  
17 result? No education. No one was safe. You, your family, going  
18 anywhere, your money was not safe. You could not use the roads.

19 The Taliban made things safe, improved security, and let  
20 people live at least a little normally. They did not steal from you.  
21 They were not corrupt.

22 I did not approve of everything they did. They were too  
23 fast to enforce Sharia law. Applying the rules of Sharia, they are

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1 too strict. Often you need mercy.

2 I grew up in Iraq with my sisters, my cousins. All of them  
3 finished the school. I supported their education, helped however I  
4 could.

5 The Taliban took over Kabul in 1996. I thought, this is the  
6 government. When I moved to -- when I moved back to Kabul with my  
7 wife, I start working with them. In 1997, I became a commander of  
8 foreign fighters fighting for the Taliban.

9 In Afghanistan there are still many different groups and  
10 tribes. When the Taliban had a large-scale fight, they reach out to  
11 their tribes and ask for men.

12 Each of the tribes, the local tribes, agree to send, for  
13 example, 1,000 men, or this or more. The Arabs were like this too,  
14 made up of all these different tribes or groups. One was al Qaeda,  
15 but there was other tribes too, Al-Jihad, Pakistani, Egyptians,  
16 Libyans, and others.

17 I was the frontline commander of all the Arab people from  
18 these groups supporting the Taliban government in Afghanistan. They  
19 came and fought just like anyone else.

20 I have to have -- I had to have -- I had to have a good  
21 relationship with all of these groups to keep these fighters coming  
22 to the front lines.

23 My enemy was not the Americans then. My enemy was the

1 Northern Alliance. The Taliban needed help on the front line, so I  
2 would go talk to the Arab groups. I would go back and forth. We  
3 supported them. That is how it worked.

4 I would talk to Mullah Obaidullah, Defense Minister, or  
5 other Afghan officials. They decided the priorities. The Arab  
6 groups would help.

7 In September 2001, I was in Kunduz City at the front line in  
8 northern Afghanistan with my brigade. I did not know about 9/11  
9 before it happened. I was surprised and worried when I heard about  
10 it. What would happen to Afghanistan, to our fight against the  
11 Northern Alliance? I thought 9/11 could only lead to bad things for  
12 Afghanistan, and it did.

13 I am a military man. If there is a war between two sides,  
14 mostly any military target would be allowed. But Islam does not  
15 allow targeting civilians.

16 If there is a possibility for civilian victims during a  
17 military attack, a religious scholar needs to say okay before it  
18 takes place. If it a civilian target, don't try. They would never  
19 say it was okay. You cannot do it.

20 Back then people did not all agree. People  
21 complained bin Laden was acting like a scholar. He was not a  
22 scholar. For sure he was not, because scholars have to pass a  
23 specific education in Islamic schools or college, and he never did

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1     that.

2             After 9/11, a lot happened. We started to leave from  
3 Northern Afghanistan after the United States started air striking the  
4 Taliban positions on the front line.

5             Jumaa Bai, the brigade commander appointed by Mullah Omar,  
6 was killed in one of these air strikes, and I was his deputy, so I  
7 took his place.

8             After a while, Taliban forces started to leave Kabul. I  
9 also left with my family. This was my home, this was my family, and  
10 I wanted to keep them safe. I took them in my car, moving from  
11 Kabul.

12            In the way out of Kabul, going to the Afghani -- to the  
13 Afghan-Pakistan border, I tried to find my family a safe place to  
14 stay. The first house that I tried was fully occupied with other  
15 families. After a few hours -- then I drove my family to a farm  
16 outside of the city.

17            After a few hours, an air strike hit the first house where I  
18 tried to have my family stay. I will never forget trying to dig  
19 people out of the rubble.

20            There was a small child who got wounded. I knew whom -- I  
21 knew him from the past. I used to joke with him and his father.

22            I took him to the hospital but he didn't live. I can still  
23 hear in my ears the child try to gasp for breath. After that he was

1 silent. Even I haven't the time to bury him. I had to leave -- I  
2 had to leave him in the hospital. I had to move my family out.

3 In those years Afghanistan was my home. My family was  
4 there. I couldn't go back to Iraq then. Saddam was still there.

5 I fought who was in front of me, but I want to tell you that  
6 I did not fight because I wanted to fight Americans or any others.  
7 Never. I just wanted them to leave my home.

8 Me and my men used what weapons we had. But we tried to  
9 plan attacks in a certain way, away from crowds of people. We would  
10 attack and leave quickly so that the locals would not be harmed after  
11 the attack.

12 It wasn't perfect, clearly. That is why we are here. And  
13 as the commander, I took -- I take responsibility for what my men  
14 did.

15 I am only telling you so you understand, so you know why. I  
16 want -- I want you to know I do not have any hate in my heart for  
17 anyone, not for them. I thought I was -- I thought I was doing  
18 right. I wasn't. I am sorry.

19 For years I want to go back -- I wanted to go back to Iraq.  
20 I was happy with what Americans did to Saddam, finally. Later on,  
21 when I was with the CIA in the black site even, an interrogator came  
22 in and said to me, "I am about to make you very happy. Saddam  
23 Hussein is dead." I was relieved.

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1           Me and my family left Afghanistan in 2006. We went to Iran  
2 first. That is where I first saw a doctor about my back. I got an  
3 MRI there. We stayed for a few months. We finally traveled into  
4 Turkey. It was a very hard trip for my wife and children, very hard  
5 physically.

6           When we finally made it to a real city, Gaziantep, we were  
7 arrested by Turkish police. I hired a lawyer to talk about  
8 my -- about staying in Turkey. My wife had Turkish relatives. Her  
9 uncle even lived in Turkey for a long time.

10          My lawyer requested asylum. We had to be interviewed. He  
11 help us find a place to stay, but we couldn't stay there.

12          The Turkish police made us move away from Gaziantep to a  
13 refugee center located many hours away. Then I was worried.

14          When I arrived, the security at the facility took everything  
15 in my pockets, my money, my papers, and my lawyer's business card.  
16 They never gave me the card back. They did give me the other items.

17          My family could come and go but -- could come and go, but I  
18 had to stay inside the building. I still remember watching my son  
19 Abdullah playing. There was a small playground outside. He hurt  
20 himself, but I couldn't even go to the hospital with him.

21          The people there told me that we didn't get asylum. They  
22 said I could appeal but wouldn't let me call my lawyer. I tried to  
23 file a separate appeal for my son and wife -- for my wife and kids.

1 I didn't want to ruin their chances of staying. The security people  
2 said no. I was very upset with them. My appeal was denied right  
3 away.

4 Not long after, they came to take us to Istanbul, all of us  
5 in a van. We were followed the whole trip by an official-looking car  
6 for 18 hours or so. It even stopped at the rest stops with us.

7 After that they put us on a plane to Kabul. On the plane,  
8 after it landed, they separated us. I hugged my children, and I  
9 never saw them after that.

10 LDC [MS. HENSLER]: The defense now publishes Defense Exhibit  
11 DD, page 3, from the ELMO, and asks that it be displayed to the panel  
12 and to the gallery.

13 Mr. Al-Tamir, can you please identify the individuals in  
14 this photo?

15 ACC [MR. HADI]: **[Speaking in English]** This photo, we took it  
16 from the passport before leaving Iran. My wife in the middle, and my  
17 sons, Abdullah from the right, then the youngest daughter Nora, and  
18 Nadia, and the far left, Omar.

19 LDC [MS. HENSLER]: How old were your children at the time  
20 when this photo was taken?

21 ACC [MR. HADI]: **[Speaking in English]** The elder, Abdullah,  
22 was seven years old, and the youngest, my daughter Nora, was three  
23 years old.



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1 LDC [MS. HENSLER]: Is this how your family looked the last  
2 time you saw them in person?

3 ACC [MR. HADI]: **[Speaking in English]** Yes.

4 LDC [MS. HENSLER]: Court reporter, please unpublish the  
5 exhibit.

6 ACC [MR. HADI]: **[Speaking in English]** After that, I was  
7 taken away by [REDACTED] security forces. A little while later, the CIA  
8 came.

9 I don't like to think about every detail of what happened or  
10 to talk about it, but I want to tell you that there are things that  
11 happened that I cannot forget for as long as I live. Sometimes I  
12 won't think about it, about these things, for months or even for  
13 years, and then something happens and it all rush back.

14 The hardest thing for me was to be humiliated.

15 A while after the security forces took me, one of them told  
16 me, "You will go to -- with the Americans." He put goggles over my  
17 eyes so I couldn't see and earmuffs over my ears so I couldn't hear.

18 They took me to a shipping container, then they started to  
19 cut off my clothes. There were so many people there. Even with the  
20 earmuffs, I could hear footsteps echoing. That moment, that was the  
21 first time I would stand without clothes in front of so many peoples,  
22 men, women I don't know. I tried to cover myself.

23 They picked me up off the ground, and I started to hear the

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1 "chk chk chk" of a camera. I couldn't see because of my -- my  
2 goggles. They were taking pictures of my body, all over. I could  
3 feel the camera every time they took the pictures. I could see the  
4 camera flashes from the sides of the goggles.

5 The hardest moment of my life. In my culture, a man or a  
6 woman has to cover themselves. Even in your house where you can be a  
7 little more free, you can never be without clothes. Only in -- only  
8 in your private room, that is the only place.

9 The last time my mother washed me, I was three or four years  
10 old. I was not -- I was not scared of the tool they used to  
11 cut off -- to cut off my clothes. I was only thinking about the  
12 humiliation.

13 After that, no one talked, but I felt someone trying to put  
14 his hands on my seat. I started to shout, "What are you doing?" He  
15 didn't listen. He put a capsules in my backside. It hurt.

16 They put a hood on over my head. It made it hard to  
17 breathe. They put some type of loose, thick clothing on my body.  
18 And then they put me in a helicopter.

19 I think because of the capsules, all of a sudden I was  
20 asleep. When I woke up, the helicopter was on the ground.

21 When I got out, they led me to a room. They said, "We need  
22 to take your clothes again." They wanted new photos.

23 I tried to argue. They said, "Don't argue. We can do this

1 the easy way or the hard way."

2 I don't know how many people were there. I remember the  
3 flash again, "chk chk chk." I still had the -- on the goggles and  
4 the hood. I couldn't see, but it was very shameful.

5 I thought, kill me but do not do that to me. My dignity, my  
6 respect for myself. I never tried to humiliate any person like  
7 that -- like this in my life, so why it's -- is this happening?

8 If I could have resisted in that time, I would have, but I  
9 couldn't. My brain was not working because of the capsules they  
10 inserted. I could not question what was happening.

11 They shaved my head and my beard. I don't know what  
12 happened first.

13 In Islam, the beard is something recommended. For me, I can  
14 leave it, I can shave, but I try to keep it.

15 My father did not have a beard, you saw. He had a  
16 moustache, because that is what -- that is what was appropriate for a  
17 government employee in Iraq.

18 In the military there is no way to keep it, but I tried to  
19 keep a beard as a man until they cut it off.

20 So the humiliation for me was the worst thing about what the  
21 CIA did. That is what stays with me.

22 When I got to the black -- to the black site, I could hear  
23 people screaming. I could hear people being thrown against the walls

1 or people hitting them; I don't know exactly. I don't know who it  
2 was.

3 Was I responsible? Something I did? Sometimes I still wake  
4 up in my dreams to those sounds.

5 In the first three months after I arrived at the black site,  
6 things wasn't so bad all the time.

7 LDC [MS. HENSLER]: The defense now publishes Defense  
8 Exhibit VVV from the standalone laptop, and ask that it be displayed  
9 to the panel and to the gallery.

10 The panel and the gallery will be shown 360-degree images of  
11 the interior of Area 2, Cell 2.

12 TC [MR. SHORT]: Your Honor, at this time I'd ask to take a  
13 quick break. This is not -- this was not releasable to the public,  
14 Your Honor.

15 LDC [MS. HENSLER]: Your Honor, we were advised by the CISO as  
16 recently as this morning that it was.

17 MJ [COL PRITCHARD]: I'm getting a thumbs up, Government.

18 TC [MR. SHORT]: Your Honor, if we could take a quick break to  
19 find out the answer. If it's not displayable, I would like to make  
20 sure that we're on good ground here.

21 MJ [COL PRITCHARD]: Okay. Members, please return to the  
22 deliberation room.

23 **[Members withdrew from the courtroom.]**

1 **[The R.M.C. 803 session was called to order at 0946, 17 June 2024.]**

2 TC [MR. SHORT]: Your Honor, as we sit here, it's still  
3 displayable right now. But my understanding is that it is not  
4 displayable. I'm not sure why we have difference of opinions or  
5 difference ----

6 MJ [COL PRITCHARD]: What is your understanding based on?

7 TC [MR. SHORT]: I'm sorry?

8 MJ [COL PRITCHARD]: Understanding based on?

9 TC [MR. SHORT]: My understanding is based on the  
10 classification markings when it was put through classification  
11 review, Your Honor.

12 MJ [COL PRITCHARD]: Okay. And by the way, the members are  
13 gone.

14 Do we have any -- hang on a second.

15 **[Pause.]**

16 TC [MR. SHORT]: I believe we had discussed this in May as  
17 well, Your Honor.

18 **[Pause.]**

19 LDC [MS. HENSLER]: Your Honor, for the -- for the record,  
20 Your Honor, the exhibit is now marked UNCLASSIFIED//FOR OFFICIAL USE  
21 ONLY, and we submitted it to the CISO weeks ago. And at least for  
22 the past week we've been advised that we can display it to the  
23 public.

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1 **[The military judge conferred with courtroom personnel.]**

2 LDC [MS. HENSLER]: Your Honor, I'd like to request that we  
3 recess the proceedings for a comfort break for Mr. Al-Tamir, and  
4 perhaps that will allow the parties some time to sort out this issue.

5 MJ [COL PRITCHARD]: Good idea. How long?

6 LDC [MS. HENSLER]: 30 minutes. 20 to 30 minutes, enough time  
7 to allow him to go back to his facility and use the restroom.

8 MJ [COL PRITCHARD]: Okay. Let's be back in at 1020.

9 The commission's in recess.

10 **[The R.M.C. 803 session recessed at 0953, 17 June 2024.]**

11 **[The R.M.C. 803 session was called to order at 1022, 17 June 2024.]**

12 MJ [COL PRITCHARD]: This R.M.C. 803 session is called to  
13 order.

14 The parties are present. Mr. Hadi is present. The members  
15 are absent.

16 And I understand, Government, we're good to display this to  
17 the public.

18 TC [MR. SHORT]: Yes, Your Honor.

19 MJ [COL PRITCHARD]: Okay. Anything before we call the  
20 members?

21 TC [MR. SHORT]: Nothing from the government, Your Honor.

22 LDC [MS. HENSLER]: No, Your Honor.

23 MJ [COL PRITCHARD]: Okay. Please call the members.

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1 [The military commission was called to order at 1024, 17 June 2024.]

2 [Members entered the courtroom.]

3 MJ [COL PRITCHARD]: The commission is called to order.

4 All parties and the members are again present as before.

5 Members, we've resolved the issue. The public may view  
6 these documents.

7 But I forgot to ask you: Have you all been able to see the  
8 exhibits on your screens?

9 Apparently so. Okay.

10 Defense, you may proceed.

11 LDC [MS. HENSLER]: The defense now again publishes Defense  
12 Exhibit VVV from the standalone laptop and ask that it be displayed  
13 to the panel and to the gallery.

14 The panel is being shown panoramic 360-degree images of the  
15 interior of Area 2, Cell 2.

16 [Pause.]

17 LDC [MS. HENSLER]: Mr. Al-Tamir, please tell the panel what  
18 we're looking at.

19 ACC [MR. HADI]: [Speaking in English] This is my first cell  
20 I was in the black site.

21 LDC [MS. HENSLER]: Is it exactly the same as your first cell  
22 in that black site?

23 ACC [MR. HADI]: [Speaking in English] Almost exactly, but

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1 there's some differences.

2 LDC [MS. HENSLER]: Mr. Anderson, can you please direct the  
3 view to the ceiling of the cell, facing the back wall?

4 Mr. Al-Tamir, are the lights the same as they were in your  
5 cell?

6 ACC [MR. HADI]: **[Speaking in English]** The light was all the  
7 time -- this one is little smaller than the light I had. The light  
8 in that time was maybe double or -- two of, the doubled ones, like  
9 this size.

10 LDC [MS. HENSLER]: Let the record reflect that Mr. Al-Tamir  
11 is referring to a light, a fluorescent light that -- on the ceiling  
12 of the courtroom that is the size of two ceiling panels, probably  
13 five feet by two feet.

14 ACC [MR. HADI]: **[Speaking in English]** And there is also  
15 the -- the ceiling, the camera. This is small camera. In that time  
16 it was, like, bigger one, maybe the older cameras or something. It  
17 was older than this one.

18 LDC [MS. HENSLER]: Mr. Al-Tamir, with respect to the lights,  
19 how often were they on?

20 ACC [MR. HADI]: **[Speaking in English]** In the few weeks, the  
21 beginning, it was all the time light, so all the time on. But after  
22 that, they start to put -- dim light from 10:00 p.m. till 4:00 a.m.

23 LDC [MS. HENSLER]: How did you know the hours they dimmed the



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1 lights?

2 ACC [MR. HADI]: **[Speaking in English]** Usually I had a small  
3 clock with me in my cell.

4 LDC [MS. HENSLER]: Mr. Anderson, please direct the view to  
5 the door of the cell.

6 Mr. Al-Tamir, there was a cage door in this cell that we're  
7 reviewing in Area 2, Cell 2, and there's also a heavy exterior door.  
8 Was that the same as your cell in the black site?

9 ACC [MR. HADI]: **[Speaking in English]** The same one. The  
10 same one, yes.

11 LDC [MS. HENSLER]: And were these doors opened or closed?

12 ACC [MR. HADI]: **[Speaking in English]** Closed all the time.

13 LDC [MS. HENSLER]: Both of them?

14 ACC [MR. HADI]: **[Speaking in English]** Both of them.

15 LDC [MS. HENSLER]: And where did you sleep?

16 ACC [MR. HADI]: **[Speaking in English]** I would sleep in the  
17 front of the shelf, the right-hand of the fence ----

18 LDC [MS. HENSLER]: Mr. Anderson ----

19 ACC [MR. HADI]: **[Speaking in English]** ---- on the ground.

20 LDC [MS. HENSLER]: ---- please direct the view to the -- a  
21 bit lower, please. Thank you.

22 ACC [MR. HADI]: **[Speaking in English]** I had a thin mat,  
23 mattress all the time.

1 LDC [MS. HENSLER]: What about a blanket?

2 ACC [MR. HADI]: **[Speaking in English]** There was a thin  
3 blanket. And after maybe a few weeks they brought a little better  
4 blanket.

5 LDC [MS. HENSLER]: How thick was the mattress they gave you  
6 to sleep on?

7 ACC [MR. HADI]: **[Speaking in English]** Blue color. I think  
8 with -- one famous ones. Everyone know it in the military, maybe.

9 LDC [MS. HENSLER]: And how thick -- can you describe how  
10 thick the mattress was in inches?

11 ACC [MR. HADI]: **[Speaking in English]** Maybe two inch, a  
12 little more. I don't exactly.

13 LDC [MS. HENSLER]: And it looks as if this floor is made of  
14 concrete. What material was the floor of that you were sleeping on?

15 ACC [MR. HADI]: **[Speaking in English]** It is concrete, but  
16 painted, thick paint.

17 LDC [MS. HENSLER]: What about the temperature in the cell?

18 ACC [MR. HADI]: **[Speaking in English]** Temperature was  
19 normal, but sometime they will leave the AC on the -- what do you  
20 call -- the lower degree and it was -- it will be freezing, you know,  
21 killing me, and, like, I cannot sleep all the night. But  
22 this sometimes, but after that they improved it and they did the  
23 normal temperature.

1 LDC [MS. HENSLER]: How long were you in the cell?

2 ACC [MR. HADI]: **[Speaking in English]** For months. I cannot  
3 exactly, but maybe about three month.

4 LDC [MS. HENSLER]: How did you track how long you were kept  
5 in the cell?

6 ACC [MR. HADI]: **[Speaking in English]** I will count  
7 everything meal, and I will put a sign, like one line on the wall of  
8 the shower.

9 LDC [MS. HENSLER]: On the exterior wall of the shower?

10 ACC [MR. HADI]: **[Speaking in English]** Yes.

11 LDC [MS. HENSLER]: How would you make a mark there?

12 ACC [MR. HADI]: **[Speaking in English]** I don't remember  
13 exactly. I will be -- by my finger, like putting scratch on there.

14 LDC [MS. HENSLER]: There's a toilet in this cell against the  
15 black -- against the back wall. Was there one in the cell that you  
16 were kept in?

17 ACC [MR. HADI]: **[Speaking in English]** Yes, the same. And  
18 sometimes will -- insect will come from that place.

19 LDC [MS. HENSLER]: Sometimes insects would come out of the  
20 toilet?

21 ACC [MR. HADI]: **[Speaking in English]** Not -- under the  
22 ground, between the ground, in the crack.

23 LDC [MS. HENSLER]: And can you please describe for the panel

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1 how you were moved by the guard force?

2 ACC [MR. HADI]: **[Speaking in English]** They will open the  
3 main door and they will point to the wall, this wall beside  
4 the -- the shower, and I will go to face the wall, rising my hand on  
5 the wall.

6 And they will come inside, the guard. They will put the  
7 shackles on my feet and the earmuffs and the goggles -- the goggles.  
8 And they will put -- then they will put the cuff on my hands and they  
9 will take me, like, for the interrogation room or other places.

10 LDC [MS. HENSLER]: Would they undertake that protocol every  
11 single time you left the cell?

12 ACC [MR. HADI]: **[Speaking in English]** Yes, exactly. And the  
13 guards would be, like, all wearing black clothes. Nothing, you  
14 cannot see any -- any piece of their skin and also they -- on their  
15 heads.

16 LDC [MS. HENSLER]: Would they speak to you? Would they speak  
17 to you?

18 ACC [MR. HADI]: **[Speaking in English]** Would ----

19 LDC [MS. HENSLER]: Would the guards speak with you?

20 ACC [MR. HADI]: **[Speaking in English]** No. No, nothing.  
21 Without any hiss, any -- just if they want something from me by sign,  
22 and stand up or sit down or, like, by signs.

23 LDC [MS. HENSLER]: By signs?

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1 ACC [MR. HADI]: **[Speaking in English]** Not a hiss.

2 LDC [MS. HENSLER]: Court reporter, please unpublish the  
3 exhibit.

4 **[Pause.]**

5 ACC [MR. HADI]: **[Speaking in English]** So they took me for  
6 the interrogation room, interrogation all the time. The  
7 interrogators would sometimes talk nicely and -- with me, sometimes  
8 not.

9 But the guards would never talk to me, not even a hiss. And  
10 they wore all black. You wouldn't see any skin, not at all.

11 Every time they took me out of the cell for interrogation or  
12 to search, they would put me in the heavy shackles and goggles. I  
13 did not know where we -- where we were, what season it is -- it was.  
14 I never saw the sun in that time.

15 In that time the interrogator let me sit down. They always  
16 keep repeating the same questions. "Where is bin Laden? Where is  
17 the next attack?" In that time, I feel I have nothing else to tell  
18 you. They knew I was repeating myself. It's not my work, not my  
19 responsibility, not my job.

20 From the beginning I said I was a member of al Qaeda, but  
21 all my time was in Kabul or the front line. I didn't agree with some  
22 of the work al Qaeda did. But if they have anything related to  
23 Afghanistan, I would give my advice.

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1           In that time I was so worried about my family. This is  
2 something I would remember in every meal, in every moment, that I  
3 left them behind. They used to sit at meals and ask for mama and  
4 baba. Their sounds would echo.

5           I asked one of the CIA during the interrogation what  
6 happened to them, to my family. They said they were in custody. I  
7 was so worried then. Why they -- why are they still in custody? I  
8 was afraid of what would happen to them there. The guilt for what  
9 happened to them will never go away.

10          And one day the interrogators showed me a picture of my  
11 father. It was almost 16 years after I left Iraq. I had -- I had  
12 not seen his face. I hadn't watched him grow old and lose his hair.  
13 Then they showed me his photo.

14          America was in Iraq at that time. I wasn't thinking about  
15 that at all until they showed me him. Why? Was it to threaten me?  
16 At that time I said, "I don't know him." I wasn't really that  
17 worried about my family in Iraq until then.

18          In 2003 -- in 2002, I called my family and they were fine.  
19 In 2006, after the Americans invaded -- invaded Iraq, I called them  
20 again. They were good. Then I thought, did I cause trouble for him  
21 again? I felt so badly.

22          Then one day the interrogators said, "We will test you to  
23 see if you are telling the truth." A man came with a device, and he

1 said, "Have you seen this before?" He opened the lie detector and  
2 said we would try it. He put the belt on and wires. He asked me  
3 questions about numbers to test me. I thought I was relaxed, but he  
4 showed me that the test question had a false answer.

5 They started asking me, "Where is bin Laden" and those  
6 things again. They said, "See, you are lying." When the CIA  
7 psychologists came in with the lead interrogator, he said, "Now we  
8 will treat you different."

9 They came the next day, without any talking, all of them  
10 came inside my cell. The guards and the CIA psychologists, so many  
11 of them. The guards took my socks and my prayer cap. They wiped  
12 away the marks on the shower -- on the shower wall to mark how long I  
13 had been there.

14 They were very angry. They yelled at me. They took me to  
15 the interrogation room. They threw me against the wall. The  
16 psychologists said, "You are lying. You disappointed me. There is  
17 nothing I can do for you now."

18 They shackled me, put goggles on, walked me in circles, and  
19 that's when they took me to a small cell. It was a tiny place, just  
20 bigger than me. The door was half the wall, and it was a small  
21 square room without no windows.

22 LDC [MS. HENSLER]: The defense publishes Defense Exhibit VVV  
23 from the standalone laptop and ask that it be displayed to the panel

1 and the gallery.

2 The panel is being shown a panoramic 360-degree image of  
3 Area 3, Quiet Room 4.

4 Mr. Anderson, can you please do another review of the room  
5 with -- facing closer to the floor.

6 Mr. Al-Tamir, can you please tell the panel what they're  
7 looking at?

8 ACC [MR. HADI]: **[Speaking in English]** This is the second  
9 cell. After they took me from the first one, they bring me here.

10 LDC [MS. HENSLER]: Would you describe the dimensions as  
11 around six feet wide by six feet long?

12 ACC [MR. HADI]: **[Speaking in English]** Something like that,  
13 yes.

14 LDC [MS. HENSLER]: What about the ceiling? Was it much  
15 taller than you?

16 ACC [MR. HADI]: **[Speaking in English]** The same color, but  
17 taller than me, yes, maybe.

18 LDC [MS. HENSLER]: Can you please direct the camera to the  
19 ceiling, Mr. Anderson.

20 ACC [MR. HADI]: **[Speaking in English]** Two-and-a-half meters  
21 or something.

22 LDC [MS. HENSLER]: Two-and-a-half meters?

23 ACC [MR. HADI]: **[Speaking in English]** I don't know exactly,



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1     about that.

2             LDC [MS. HENSLER]:   How many shackle points were there in that  
3     cell?

4             ACC [MR. HADI]:   **[Speaking in English]**   In that time there was  
5     three shackle points, one of them in the ground close to the wall, to  
6     the opposite wall of the -- to the door.

7             LDC [MS. HENSLER]:   Mr. Anderson, can you please direct the  
8     camera to that spot.

9             ACC [MR. HADI]:   **[Speaking in English]**   And the second one was  
10    on the wall like waist -- waist high.

11            LDC [MS. HENSLER]:   Is the one we're viewing now by the black  
12    door the one that you describe as around waist high?

13            ACC [MR. HADI]:   **[Speaking in English]**   Maybe the same high,  
14    but the room I was there, the shackle -- this shackle on the wall was  
15    on the opposite of the door.

16            LDC [MS. HENSLER]:   On the opposite wall.

17            ACC [MR. HADI]:   **[Speaking in English]**   On the other side.

18            LDC [MS. HENSLER]:   Mr. Anderson, can you please direct the  
19    image to the back floor.

20            ACC [MR. HADI]:   **[Speaking in English]**   The shackles on the  
21    floor and in the top of it, the shackle on the -- on the wall.

22            LDC [MS. HENSLER]:   So there was a shackle point in the floor  
23    like in this photo?

1 ACC [MR. HADI]: **[Speaking in English]** Yes.

2 LDC [MS. HENSLER]: And there was one waist high but on the  
3 other -- on the opposite wall?

4 ACC [MR. HADI]: **[Speaking in English]** Yes, on this wall.

5 LDC [MS. HENSLER]: On the back wall?

6 ACC [MR. HADI]: **[Speaking in English]** Yes.

7 LDC [MS. HENSLER]: And there was one on the ceiling?

8 ACC [MR. HADI]: **[Speaking in English]** And one on the  
9 ceiling, exactly, yes.

10 LDC [MS. HENSLER]: Mr. Anderson, can you please direct the  
11 camera to the ceiling.

12 Are you able to see the shackle point in this image?

13 ACC [MR. HADI]: **[Speaking in English]** I think maybe it's a  
14 little in the center. There ----

15 LDC [MS. HENSLER]: Mr. Anderson, will you please do a  
16 rotation of the room.

17 So you're not able to see the shackle point on the ceiling  
18 in this image, are you?

19 ACC [MR. HADI]: **[Speaking in English]** I don't know, but it  
20 was in the ceiling, like, close to the center of the ceiling, in the  
21 middle of the ceiling.

22 LDC [MS. HENSLER]: Was there a camera in this cell?

23 ACC [MR. HADI]: **[Speaking in English]** There was a camera,

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1 large-size camera.

2 LDC [MS. HENSLER]: Where was it?

3 ACC [MR. HADI]: **[Speaking in English]** The corner on the  
4 ceiling. Instead of this small one, it was like a larger one.

5 LDC [MS. HENSLER]: Where did you sleep when you were kept in  
6 this cell?

7 ACC [MR. HADI]: **[Speaking in English]** I would sleep in  
8 the -- close to the door, in -- like, my head in the -- on the -- on  
9 the far -- yes, on the ground there.

10 LDC [MS. HENSLER]: You would sleep on the ground with your  
11 head ----

12 ACC [MR. HADI]: **[Speaking in English]** My head, you know, in  
13 this direction (indicating), the door.

14 LDC [MS. HENSLER]: With your head near the door or the  
15 opposite wall?

16 ACC [MR. HADI]: **[Speaking in English]** No, close to the door.

17 LDC [MS. HENSLER]: Close to the door. And what would ----

18 ACC [MR. HADI]: **[Speaking in English]** Beside -- beside the  
19 door. Beside the door.

20 LDC [MS. HENSLER]: And what would you sleep on?

21 ACC [MR. HADI]: **[Speaking in English]** They gave me a very  
22 thin mattress, maybe 2 millimeter -- 2 millimeter thick or something  
23 like that.

1 LDC [MS. HENSLER]: 2 millimeters thick?

2 ACC [MR. HADI]: **[Speaking in English]** Something like that.  
3 Not more than 2, 3 millimeter.

4 And I would -- I would fold it to -- and they would  
5 put -- put it on -- under my head, but my body would be on the  
6 ground.

7 LDC [MS. HENSLER]: So you would fold up the mat under your  
8 head ----

9 ACC [MR. HADI]: **[Speaking in English]** Yes.

10 LDC [MS. HENSLER]: ---- to use like a pillow, and your  
11 ground -- and you would lie on the ground?

12 ACC [MR. HADI]: **[Speaking in English]** Yes.

13 LDC [MS. HENSLER]: And what was the ground made of?

14 ACC [MR. HADI]: **[Speaking in English]** The same -- I mean,  
15 the same concrete and painted with thick paint.

16 LDC [MS. HENSLER]: Was it uncomfortable?

17 ACC [MR. HADI]: **[Speaking in English]** For sure. I had a  
18 back problem from that time and it was -- I cannot walk continuously.  
19 I had to take a rest during my even normally walk. And my joints and  
20 from the coldness from the ground start to -- to be painful, very  
21 painful in that time.

22 LDC [MS. HENSLER]: There's no toilet in this cell.

23 ACC [MR. HADI]: **[Speaking in English]** No. There is no

1 toilet. There was a bucket, small bucket. They put it on the ground  
2 the same side of the door.

3 LDC [MS. HENSLER]: Was the bucket there all the time?

4 ACC [MR. HADI]: **[Speaking in English]** All the time.

5 LDC [MS. HENSLER]: Was it covered?

6 ACC [MR. HADI]: **[Speaking in English]** It was covered, yes.  
7 And they put some kind of liquid, like 2 inch, something like that,  
8 on the bucket.

9 LDC [MS. HENSLER]: There are two doors in the cell that's  
10 reflected in this image, one which is made of a black metal mesh, an  
11 interior door, and an exterior door that's solid. Is that how it was  
12 in your cell?

13 ACC [MR. HADI]: **[Speaking in English]** Yes, the same. And  
14 both of them would be closed all the time. You cannot hear  
15 any -- what's happening outside in this one.

16 LDC [MS. HENSLER]: Was there anything on the wall when you  
17 arrived?

18 ACC [MR. HADI]: **[Speaking in English]** It was a big splash of  
19 blood in my right hand when I -- when come inside the -- the cell, a  
20 big splash of blood on the -- on the -- on this wall beside  
21 the -- there was a water outlet on this wall by the -- on  
22 the -- waist high and on the top, exactly this one. And on the top  
23 of it, like a big splash of blood.

1 LDC [MS. HENSLER]: How did you feel when you saw this splash  
2 of blood?

3 ACC [MR. HADI]: **[Speaking in English]** I feel very worried  
4 because I think that this blood is from someone was -- was here in  
5 this cell before me, and I will have the same kind of treatment.

6 LDC [MS. HENSLER]: And how long was that splash of blood on  
7 the wall?

8 ACC [MR. HADI]: **[Speaking in English]** All the time, from the  
9 first moment to the last moment I left the room.

10 LDC [MS. HENSLER]: And around how long were you kept in this  
11 cell?

12 ACC [MR. HADI]: **[Speaking in English]** Around?

13 LDC [MS. HENSLER]: How long?

14 ACC [MR. HADI]: **[Speaking in English]** I can guess about  
15 three month continuously.

16 LDC [MS. HENSLER]: And you mentioned the water outlet that  
17 we're looking at. Were you able to access the water in that outlet?

18 ACC [MR. HADI]: **[Speaking in English]** No. It was closed all  
19 the time, but I -- it wasn't -- it hasn't -- in that time it hasn't a  
20 cover, and you can see the -- what you call -- the pipe of the water  
21 just inside the wall.

22 LDC [MS. HENSLER]: Court reporter, please unpublish the  
23 exhibit.

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1           ACC [MR. HADI]: **[Speaking in English]** Like I said, I only  
2 had a very thin mat. My joints started to be painful from the  
3 coldness from the sleeping on the ground.

4           When I complained about my joint pain, they gave me Motrin  
5 for three days. Then they stopped. Sometimes I need to move around  
6 for my back, but I could only take -- take two steps one way and then  
7 take two steps back.

8           When I first got there, the psychologist screamed at me,  
9 pointing at the shackle point, "We will put you like a dog. We will  
10 shackle you to the ceiling."

11           Sometimes they would yell at me, "You will never leave this  
12 cell. You will stay here forever. You will never see your kids,"  
13 talking like that. When they were shouting to me like that, it was  
14 like my mind left my body.

15           The second or the third or the fourth day in the small cell,  
16 they brought a little table and papers. And the man said, "You have  
17 to write everything here." He wrote, "You will stay 40 years" on the  
18 paper, and they left.

19           Later they took me to the interrogation room barefoot. All  
20 the guards came in, five or seven guards, totally covered all in  
21 black so you couldn't see their skin.

22           The CIA psychologist said, "We have done everything with you  
23 in a good way. You are telling us lies. From now on, this

1 gentleman, who loves his country, will take over and we cannot do  
2 anything for you from now on."

3           The other one started to talk with bad language and cursing.  
4 "From now on, anything can happen to you." They threw me against the  
5 wall again and started screaming at me. They put goggles on me and  
6 started hitting the wall by my head, whispering in my ear, "We can  
7 beat you. We can hang you. Nobody will know what happened to you."

8           After that my head stopped thinking again. Hitting the wall  
9 by my head, over and over, yelling and whispering and hitting the  
10 wall. Then they took me back to the cell until the next morning.

11           The light was on in the tiny cell all the time. I was very  
12 sad. I was very sad. If I thought about my kids, I would wake up.  
13 I tried to think about the good -- the good times.

14           Now, during the interrogation I was always standing on the  
15 wall and the interrogators were sitting. I was barefoot and shackled  
16 hand to foot for hours of interrogation many times a day.

17           LDC [MS. HENSLER]: The defense now publishes Defense  
18 Exhibit VVV from the standalone laptop to be displayed to the panel  
19 and to the gallery.

20           The panel is being shown panoramic 360-degree images of Area  
21 3, Interview Room 1.

22           Mr. Al-Tamir, can you please tell the panel what we're  
23 looking at.



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1 ACC [MR. HADI]: **[Speaking in English]** This is the  
2 interrogation room.

3 LDC [MS. HENSLER]: There's a two-way mirror at the wall of  
4 this room by the -- by the foyer, it looks like.

5 Was there a two-way mirror in the room you were interrogated  
6 in?

7 ACC [MR. HADI]: **[Speaking in English]** There was like that,  
8 yes, the exact mirror. And under the mirror, there was a tiny  
9 camera. And over the -- over the mirror was the main camera.

10 LDC [MS. HENSLER]: Did the cameras look like items that are  
11 reflected in this -- in this image?

12 ACC [MR. HADI]: **[Speaking in English]** I think it -- it look  
13 like that, but it was not in the center. I think it was in the  
14 corner.

15 LDC [MS. HENSLER]: There are white plastic chairs in the  
16 image. Is that what you were allowed to sit on during the first few  
17 months you were held at the black site in that first phase?

18 ACC [MR. HADI]: **[Speaking in English]** During the first  
19 month, yes. This is the plastic chair I sit on, and the table, the  
20 same -- this one or a little bigger than this one, the interrogator  
21 will sit behind.

22 LDC [MS. HENSLER]: Mr. Anderson, can you please pan to the  
23 back wall.

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1           In that second phase that you were held at the black site,  
2   you mentioned you were interrogated while standing up.

3           ACC [MR. HADI]:   **[Speaking in English]**   Yes.  Usually, they  
4   would put me on the -- leaning on this wall ----

5           LDC [MS. HENSLER]:  Can you just ----

6           ACC [MR. HADI]:  ---- standing.

7           LDC [MS. HENSLER]:  Can you please describe how you were  
8   shackled.

9           ACC [MR. HADI]:   **[Speaking in English]**   There was a shackle on  
10   my -- on the feet and the handcuff on my hands and chain between both  
11   of them, and the chain I think on my wrist, also.

12          LDC [MS. HENSLER]:  And how long would you be standing in that  
13   position?

14          ACC [MR. HADI]:   **[Speaking in English]**   For hours.  Sometimes  
15   one time a day, sometimes two times a day.

16          LDC [MS. HENSLER]:  Did that cause you pain?

17          ACC [MR. HADI]:   **[Speaking in English]**   A lot, a lot of pain.  
18   I had -- from my back pain, you know, and joint pain was getting more  
19   and more and more from sleeping on the ground, from coming and back  
20   in, from thinking, from everything.

21          LDC [MS. HENSLER]:  Did the wall look just like that?

22          ACC [MR. HADI]:   **[Speaking in English]**   Almost like that, yes.

23          LDC [MS. HENSLER]:  Court reporter, please unpublish the

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1 exhibit.

2 ACC [MR. HADI]: **[Speaking in English]** Like I said, I was  
3 standing all the time. The pain was so bad. They were screaming and  
4 pushing me, but I tried never to complain. I was still afraid of  
5 asking for anything.

6 I tried to act normal with the interrogators. But after the  
7 interrogation, when I went back to my cell, I would start to think  
8 about everything, deep thinking about every detail.

9 At that time I was afraid of asking for anything. I only  
10 had a small bottle of water a day while I was in the small cell. One  
11 liter or so for everything, for drinking, toilet, cleaning, before  
12 prayer. My skin -- my skin started to crack. There was no toilet,  
13 only a bucket.

14 They brought me pork to eat, so I would not eat. Pork is  
15 not allowed in Islam.

16 After a few days, I could not stand up. I was very weak. I  
17 was so weak that I could only pray sitting down.

18 They finally said, "You are not eating." Then they started  
19 to bring Ensure, a bottle of Ensure with the meals.

20 As a Muslim, I have to pray five times a day towards Mecca,  
21 at set time every day. They wouldn't tell me which way to pray or  
22 when to pray. They would put goggles on me and walk me around in  
23 circles when moving me between my cell and interrogation rooms to be

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1     sure I did not know the directions.

2             One time I made the mistake of asking for something. A  
3     filling in the bottom of my mouth broke. I had to see a dentist. So  
4     they took me to the interrogation room, the one where they always  
5     took me to answer questions. There was not table in it at the time.  
6     Instead, there was a chair and a little generator.

7             The person told me to sit in the chair. He turned on the  
8     generator and a drill started. I was strapped to the chair, and he  
9     started drilling against the top of my front teeth.

10            I said, "The filling is on the bottom of my mouth." He  
11     said, "Just checking," and looked in my mouth. Then he drilled in  
12     the wrong place, the top of my mouth. I still have a hole in my  
13     bridge to this day.

14            I learned then never to ask, not for everything -- not for  
15     anything. My skin cracked so badly from not having enough water and  
16     the pain in my -- in my joints. I never asked for anything after  
17     that.

18            Finally, after a few months a man came in a suit, tie, wore  
19     glasses. He was with all the interrogators, all the CIA  
20     psychologists. The table was full, ten people or something like  
21     that. He said, "I am in charge of this location. This is the last  
22     chance for you."

23            I was thinking things are going -- are about to get much

1 worse. "Where is bin Laden?" I told them, "I don't know." I wasn't  
2 worried they would say, "Actually, you knew," because I already told  
3 them everything. My worry was whether they would believe me or not.  
4 Then they took me to Guantanamo.

5 Here in GTMO, I lived in Camp VII. I lived there for 14  
6 years, always being watched, cameras everywhere, always these  
7 procedures. You don't feel -- you don't even feel like a person.  
8 Shackled, hooded, just to walk across the hallway.

9 But what stuck with me was not the roughness. The  
10 loneliness was the worst. I was allowed to see the other detainees  
11 there only a little bit. Almost all the time I was alone in my cell.

12 For many years it was like that. I couldn't call my family,  
13 talk to them, nothing. I got letters after a while. I still have  
14 them all filled with my drawings -- filled with drawings by my  
15 children when they were little. Eventually they could send short  
16 videos.

17 In 2013, the ICRC started doing short Skype calls every  
18 three months. It is not like it was in the early days right now, but  
19 it is still difficult.

20 I want you to know that whatever you decide, I will not  
21 carry any bad feelings forward. There is a verse in the Quran, Surah  
22 Fussilat, number 41 in the Quran, verses 34-35.

23 In English, it means: Allah, the God, commands the

1 believers to be patient when they feel angry and to forgive when they  
2 are mistreated. If they do this, Allah will make their adversaries  
3 become like warm friends. And those who follow this, which is not an  
4 easy path, will see happiness.

5           What happened here cannot be changed. What I feel about the  
6 black site, my time in GTMO, is that I want to fold this page and not  
7 remember it anymore. I want to start a new life.

8           There has been kindness here, nurses who stayed all night by  
9 my side after my surgeries, who cared for me with gentle kindness.

10           When I lost the ability to walk a few years ago, a military  
11 doctor who helped me push for new SOPs in the camp, he would come to  
12 play checkers with me, stay with me during my recovery from surgery.

13           This type of kindness, not only from doctors and nurses, but  
14 from some guards too, will stay with me for the rest of my life.

15           I will never be able to thank those people. I can -- I can  
16 never know who they really are or explain to them what they mean to  
17 me.

18           My legal team -- my legal team, too. I appreciate for every  
19 single person who spent even one day working on my case. Even what  
20 you might think are little things, I always remember, reminder of the  
21 good things about people in life.

22           I am here today because I want to turn the page on  
23 this -- on this experience. I want to try to fix what harm I did.

1           I pleaded guilty. I spent many weeks last year talking to  
2 the Americans, answering their questions. I answered questions from  
3 another government too, even though my lawyers told me that I did not  
4 have to. Talking helped me turn the page.

5           I hope that one day I will see my family again. You saw my  
6 children. They aren't small kids anymore. I did not know when I  
7 hugged them on the plane in 2006 as little kids I would never see  
8 them again like that.

9           I want to hold my children. I know that my absence has been  
10 impossible for my children. You saw the drawing by my daughter Nora,  
11 the sewing project by my daughter Nadia.

12           My wife Sonia too, she went through too many hardships.  
13 Life in Afghanistan is hard. She became a professional midwife. She  
14 delivers babies and works all the time to support my children. She  
15 made sure they got an education, as much as possible, so they  
16 completed their high schools.

17           I have never forgotten them for a moment. I have always  
18 seen them in my dreams.

19           One time I dreamed that one of them woke up because they  
20 felt the room was cold. So I wrote to my wife about this dream and  
21 asked her to cover them -- to cover them well when sleeping, because  
22 I felt sure that these dreams were real.

23           There is a verse in the Quran, Surah Number 3, called

1 Al-Imran, Verse 134: Those who repress anger and who pardon verily,  
2 Allah loves. Allah loves.

3 I have already forgiven my captors. And to the victims,  
4 while I know I am not entitled to your forgiveness, I ask for mercy.

5 Thank you very much for your attention.

6 LDC [MS. HENSLER]: Your Honor, that completes the unsworn  
7 statement.

8 MJ [COL PRITCHARD]: You may return to the defense table.

9 **[Pause.]**

10 LDC [MS. HENSLER]: Your Honor, may the guards please move  
11 Mr. Al-Tamir back to counsel table?

12 MJ [COL PRITCHARD]: Yes.

13 Defense, while that's happening, do you have additional  
14 evidence to publish?

15 LDC [MS. HENSLER]: Yes, Your Honor. Three short videos.

16 MJ [COL PRITCHARD]: Okay. Let's wait until Mr. Hadi gets  
17 back to his seat, and then you may do that.

18 **[Pause.]**

19 LDC [MS. HENSLER]: Your Honor, the defense asks to publish  
20 Defense Exhibit WWW, which is a short video of Mr. Al-Tamir's wife,  
21 Sonia.

22 MJ [COL PRITCHARD]: Go ahead.

23 **[Video from Defense Exhibit WWW played.]**



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1 MJ [COL PRITCHARD]: Is there a way you can get rid of the  
2 progress on the bottom so we can see the subtitles?

3 LDC [MS. HENSLER]: The court's indulgence, Your Honor?

4 **[Pause.]**

5 LDC [MS. HENSLER]: Your Honor, our understanding is that that  
6 bar at the bottom of the screen will go away after a few seconds.

7 MJ [COL PRITCHARD]: All right. Let's give it a shot.

8 LDC [MS. HENSLER]: Thank you.

9 **[Video from Defense Exhibit WWW played.]**

10 LDC [MS. HENSLER]: Court reporter, please unpublish that  
11 exhibit.

12 Your Honor, the defense asks to publish Defense Exhibit XXX  
13 to the panel and to the gallery.

14 MJ [COL PRITCHARD]: Proceed.

15 **[Video from Defense Exhibit XXX played.]**

16 LDC [MS. HENSLER]: Court reporter, please unpublish the  
17 exhibit.

18 The defense asks to publish Defense Exhibit YYY to the panel  
19 and to the gallery.

20 MJ [COL PRITCHARD]: You may.

21 **[Video from Defense Exhibit YYY played.]**

22 LDC [MS. HENSLER]: Court reporter, please unpublish the  
23 exhibit.

1           Your Honor, we would ask for an opportunity for the panel to  
2 be able to review Defense Exhibit VVV. This was the multimedia  
3 presentation of the black site that we showed three short clips of  
4 during Mr. Al-Tamir's unsworn statement.

5           My understanding is that the panel has not had an  
6 opportunity to review this exhibit. So we would ask that they be  
7 permitted an opportunity to do so.

8           MJ [COL PRITCHARD]: You mean during deliberations?

9           LDC [MS. HENSLER]: Now, Your Honor.

10          MJ [COL PRITCHARD]: Oh, now. Oh, you want to publish it now?

11          LDC [MS. HENSLER]: Yes, Your Honor.

12          MJ [COL PRITCHARD]: Okay. Proceed.

13   **[Pause.]**

14          LDC [MS. HENSLER]: Your Honor, we have been permitted to  
15 provide them with a laptop so that they may review it in their  
16 deliberation room.

17          MJ [COL PRITCHARD]: Will they have instructions on how to  
18 interact with it? Because my recollection is it's not intuitive  
19 necessarily.

20          LDC [MS. HENSLER]: Our Security -- our Defense Information  
21 Security Officer would be happy to give them a short -- short  
22 instructions. But basically, it's a multimedia presentation that  
23 allows you to click through diagrams of various places and 360-degree

1 panoramic images of various places in order to view them. It's not  
2 easy, but that's the way that it was provided to us.

3 MJ [COL PRITCHARD]: Okay. Let me say this out loud. You  
4 correct me.

5 My recollection of this exhibit is that it's a series of  
6 what looks like floor plans, essentially. It's not exactly a  
7 PowerPoint presentation, but you can move through the various floor  
8 plans by clicking on the document.

9 Within the floor plans there are little circles, different  
10 colored circles inside the floor plans. And you can click on each  
11 one of those circles. One color circle, I think, represents a  
12 panoramic 360-degree like you saw earlier. Another circle, I think,  
13 is still photos of different areas of the room.

14 And was there any other feature that I'm missing?

15 LDC [MS. HENSLER]: That's correct, Your Honor. It's just if  
16 you click on the various areas, you'll see different possibilities  
17 for a tour appear before you. So for every area, there are various  
18 places that you can -- various places, diagrams that you can review.

19 MJ [COL PRITCHARD]: Okay. And is it that specific laptop  
20 that's sitting in front of you right now?

21 LDC [MS. HENSLER]: Yes, it is, Your Honor.

22 MJ [COL PRITCHARD]: Okay. And that's the one that will go  
23 back to the deliberation room?

1 LDC [MS. HENSLER]: Yes.

2 MJ [COL PRITCHARD]: Okay. Is there any -- it has the  
3 instructions for passwords or whatever to get into it so the panel  
4 members can do that easily?

5 LDC [MS. HENSLER]: Yes, Your Honor, on a Post-It.

6 MJ [COL PRITCHARD]: Okay. And is there a large screen in the  
7 deliberation room that that may be connected to so they all don't  
8 have to huddle around one little laptop?

9 LDC [MS. HENSLER]: I don't know, Your Honor. I've never been  
10 back in that room.

11 MJ [COL PRITCHARD]: Do you know, Government?

12 TC [MR. SHORT]: I do not, Your Honor.

13 **[The military judge conferred with courtroom personnel.]**

14 MJ [COL PRITCHARD]: Okay. There is a screen in there. Okay.  
15 My -- all right. I will -- I'll get him back.

16 TC [MR. SHORT]: Yeah, I'm told that there is a screen, Your  
17 Honor.

18 **[The military judge conferred with courtroom personnel.]**

19 MJ [COL PRITCHARD]: Okay. There is a screen. The laptop can  
20 be connected to it. IT will take care of that for the members to  
21 make sure they don't have to huddle around the little screen.

22 LDC [MS. HENSLER]: Thank you, Your Honor.

23 TC [MR. SHORT]: Your Honor -- Your Honor, if I may, I was

1 also advised last week that WHS had provided an own -- the members  
2 their own screen name and password as well.

3 So they don't need to use the defense password, because I  
4 believe there might be other information on there as well. They'll  
5 have their own ----

6 MJ [COL PRITCHARD]: Where is that information?

7 TC [MR. SHORT]: I was told by IT that it was available.

8 MJ [COL PRITCHARD]: Okay. So I'm going to have an IT  
9 specialist available for the members, one, to get them set up,  
10 whatever password that person uses on that computer, and then to be  
11 on hand.

12 If you have any problems, you can -- you can tell the  
13 bailiff to get the IT specialist that will come help you.

14 Okay. Anything else, Defense?

15 LDC [MS. HENSLER]: No, Your Honor. Thank you very much.

16 MJ [COL PRITCHARD]: Does the defense rest?

17 **[Counsel conferred.]**

18 LDC [MS. HENSLER]: Yes, Your Honor.

19 MJ [COL PRITCHARD]: Trial Counsel, do you have any rebuttal  
20 evidence to offer?

21 TC [MR. SHORT]: Your Honor, can you give us a couple minutes?  
22 Based on the unsworn statement, we may move to additional rebuttal  
23 evidence.

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1 MJ [COL PRITCHARD]: Okay. Well, how much time do you need?

2 **[Counsel conferred.]**

3 TC [MR. SHORT]: 30 minutes, Your Honor. I don't know how  
4 much time the panel will need to review the defense exhibit, but  
5 we'll probably need 30 minutes to get that ready to go.

6 MJ [COL PRITCHARD]: Well, are -- by defense exhibit, are you  
7 talking about the multimedia presentation?

8 TC [MR. SHORT]: That's right, Your Honor.

9 MJ [COL PRITCHARD]: I'm just going to let them do that during  
10 their deliberations.

11 TC [MR. SHORT]: Oh, okay.

12 MJ [COL PRITCHARD]: So you need 30?

13 TC [MR. SHORT]: 30 minutes, Your Honor.

14 MJ [COL PRITCHARD]: Okay. Please be back at noon.

15 The commission's in recess.

16 **[Members withdrew from the courtroom.]**

17 **[The military commission recessed at 1131, 17 June 2024.]**

18 **[The R.M.C. 803 session was called to order at 1206, 17 June 2024.]**

19 MJ [COL PRITCHARD]: This R.M.C. 803 session is called to  
20 order.

21 The parties and Mr. Hadi are present. The members are  
22 absent.

23 Trial Counsel?

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1 TC [MR. SHORT]: Thank you, Your Honor. We are not going to  
2 move to admit any additional rebuttal evidence at this time.

3 MJ [COL PRITCHARD]: Okay. And, Defense, you still intend to  
4 offer the surrebuttal evidence that was admitted?

5 TC [MR. SHORT]: Oh, I'm sorry, Your Honor. I thought you  
6 meant the additional rebuttal evidence. We want to publish our  
7 rebuttal evidence that has been admitted.

8 MJ [COL PRITCHARD]: I understood that.

9 DDC [CPT CASCIOLA]: Yes, Your Honor. The defense would move  
10 to publish Defense Exhibit QQQQ.

11 MJ [COL PRITCHARD]: Okay. And, Government, remind me of the  
12 rebuttal exhibit numbers.

13 TC [MR. SHORT]: Yes, Your Honor. It's Prosecution Exhibit  
14 053, 064, 067, 072, 078, 084, and 086.

15 **[Pause.]**

16 MJ [COL PRITCHARD]: Did you say 057? 057, my records  
17 indicate, was not admitted.

18 TC [MR. SHORT]: I have 067, Your Honor. I have 053. And  
19 I'll repeat, Your Honor.

20 MJ [COL PRITCHARD]: 053, that's the one I -- okay. Got it.

21 And, Defense, have you seen those?

22 DDC [CPT CASCIOLA]: We have, Your Honor.

23 MJ [COL PRITCHARD]: Okay. So what I'm going to do is bring

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1 the members back in. I'm going to let them know they have rebuttal  
2 and surrebuttal evidence. And we have copies for everybody?

3 TC [MR. SHORT]: Yes, Your Honor.

4 DDC [CPT CASCIOLA]: Yes, sir.

5 MJ [COL PRITCHARD]: Okay. That they'll each have a copy, and  
6 they can review those in the deliberation room. But let's -- let's  
7 talk about some sentencing instructions real quick.

8 Do counsel agree that instruction on a fine is not  
9 appropriate in this case?

10 TC [MR. SHORT]: Yes, Your Honor.

11 DDC [Maj ENGLING]: The defense agrees, Your Honor.

12 MJ [COL PRITCHARD]: The sentence worksheet is marked as  
13 Appellate Exhibit 266B.

14 Defense, do you have any objections to the sentence  
15 worksheet?

16 DDC [Maj ENGLING]: No, Your Honor.

17 MJ [COL PRITCHARD]: I intend to give the standard sentencing  
18 instructions as we previously discussed.

19 Counsel have any request for additional instructions based  
20 on anything that occurred during these sentencing proceedings?

21 TC [MR. SHORT]: Nothing from the government, Your Honor.

22 DDC [Maj ENGLING]: Nothing from the defense, Your Honor.

23 MJ [COL PRITCHARD]: And so we know that members have the



1 laptop for the interactive exhibit, and that's already been set up  
2 for them in the deliberation room.

3 Do they also have a -- do they use that, or do they have a  
4 different laptop to review the videos?

5 LDC [MS. HENSLER]: Yes, Your Honor.

6 MJ [COL PRITCHARD]: Okay. That was sort of an either/or  
7 question.

8 LDC [MS. HENSLER]: They have a laptop provided by the Office  
9 of Court Administration where those exhibits are available to them.

10 MJ [COL PRITCHARD]: Separate from that special laptop?

11 LDC [MS. HENSLER]: It's all on the same laptop because the  
12 multimedia presentation is now unclassified.

13 MJ [COL PRITCHARD]: Got it.

14 Government, are you prepared to make your sentencing  
15 argument?

16 TC [MR. SHORT]: Yes, Your Honor.

17 MJ [COL PRITCHARD]: Do you need the members to have reviewed  
18 the rebuttal and surrebuttal evidence before you do that, or is that  
19 something that they can just review in deliberations when they  
20 deliberate?

21 TC [MR. SHORT]: Your Honor, I don't think it will take them  
22 long to review that rebuttal evidence, but I would like them to have  
23 some familiarity with it.

1 MJ [COL PRITCHARD]: Do you agree, Defense? You'd rather have  
2 them review that -- the rebuttal/surrebuttal before arguments?

3 DDC [CPT CASCIOLA]: Yes, sir.

4 MJ [COL PRITCHARD]: And, Government, remind me how long you  
5 think your sentencing argument is.

6 TC [MR. SHORT]: I'm going to be less than an hour, Your  
7 Honor.

8 MJ [COL PRITCHARD]: Okay. Defense, given that, where are we  
9 in terms of Mr. Hadi's ability to participate if we do the  
10 government's sentencing argument this afternoon, or now essentially?

11 LDC [MS. HENSLER]: Your Honor, there are two issues with  
12 that.

13 From the perspective of the defense, we have not had an  
14 opportunity to review the government's presentation. It was just  
15 provided to us five minutes ago. And it is a significant number of  
16 pages.

17 So we would ask for a meaningful opportunity. I have not  
18 even looked at it yet.

19 Separate and apart from that, Mr. Al-Tamir is in a lot of  
20 pain. Sitting hunched over the unsworn statement and reading for two  
21 hours was -- was very hard on him. He just took a Percocet. So we  
22 would ask that we recess at this point.

23 MJ [COL PRITCHARD]: Okay. Anything else before we call the

1 members?

2 TC [MR. SHORT]: Nothing from the government, Your Honor.

3 LDC [MS. HENSLER]: Nothing from the defense, Your Honor.

4 MJ [COL PRITCHARD]: Let's call the members.

5 **[The military commission was called to order at 1215, 17 June 2024.]**

6 **[Members entered the courtroom.]**

7 MJ [COL PRITCHARD]: The commission is called to order.

8 All parties, Mr. Hadi, and the members are present as  
9 before.

10 Trial Counsel, do you have any rebuttal evidence to offer?

11 TC [MR. SHORT]: Yes, Your Honor. At this time we'd like to  
12 publish for the members Prosecution Exhibit 053, Prosecution  
13 Exhibit 064, Prosecution Exhibit 067, Prosecution Exhibit 072,  
14 Prosecution Exhibit 078, Prosecution Exhibit 084, and Prosecution  
15 Exhibit 086.

16 MJ [COL PRITCHARD]: And you have copies for all the members?

17 TC [MR. SHORT]: We do, Your Honor.

18 MJ [COL PRITCHARD]: Okay. You may provide those to the  
19 bailiff and the bailiff will hand them to the members.

20 **[Pause.]**

21 MJ [COL PRITCHARD]: Members, you will have an opportunity to  
22 review these in the deliberation room.

23 **[Pause.]**

1 MJ [COL PRITCHARD]: Defense, do you have any surrebuttal  
2 evidence to offer?

3 DDC [CPT CASCIOLA]: Yes, Your Honor. At this time the  
4 defense would offer Defense Exhibit QQQQ as our surrebuttal and seek  
5 to publish to the jury, please.

6 MJ [COL PRITCHARD]: Okay. Please hand that to the bailiff.

7 DDC [CPT CASCIOLA]: Thank you.

8 **[Pause.]**

9 MJ [COL PRITCHARD]: Members, just a quick word on the purpose  
10 of rebuttal and surrebuttal.

11 Rebuttal evidence is to address the opponent's evidence. So  
12 the government is addressing the defense evidence that was provided  
13 to you, and that's what the rebuttal evidence is.

14 The surrebuttal evidence addresses the rebuttal evidence.  
15 So the defense is addressing the government's rebuttal evidence that  
16 you just got.

17 So that's the purpose of those sets of documents you just  
18 got.

19 We're going to recess now so you can review those documents.  
20 And currently the plan is we will be in recess until Wednesday at  
21 0830.

22 Mr. President, I'll let you determine the schedule of  
23 reviewing that evidence, but it needs to be reviewed before our next

1 session.

2 Any questions from the members on that process?

3 Apparently not.

4 The commission is in recess.

5 **[Members withdrew from the courtroom.]**

6 **[The military commission recessed at 1219, 17 June 2024.]**

7 **[END OF PAGE]**