MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA

UNITED STATES OF AMERICA v. IBRAHIM AL QOSI	**D___** **Defense Motion** For Appropriate Relief (Grant Expert Psychiatric Consultant) 15 January 2010

1. Timeliness: This Motion is filed in accordance with the Military Judge's order of 12 January 2010, issued during an RMC 802 conference held telephonically.

2. Relief Sought: The defense respectfully requests that the Commission grant the defense's request for funding from the Convening Authority for Dr. [redacted] M.D., to consult with the defense and perform such psychiatric examinations of the accused as are necessary in his medical opinion to corroborate, if possible, Mr. Al Qosi's credible claim of abuse and torture. The defense further requests Dr. [redacted] services so that he may advise defense counsel, *inter alia*, on the effects of certain interrogation techniques on Mr. Al Qosi; on the reliability of his statements following use of these techniques; and on the impact on Mr. Al Qosi of the conditions of his prolonged confinement at Guantanamo Bay.

3. Overview:

This is a motion to compel funding for Dr. [redacted] to serve as a defense consultant and possibly as a witness. After the defense filed a request with the Convening Authority (CA) for Dr. [redacted], the CA appointed a substitute, Colonel [redacted], M.D., M.P.H., Medical Corps, U.S. Army. Based on Dr. [redacted] statements to the defense on 13 January 2010, Col. [redacted] is not an adequate substitute as he has no experience conducting forensic examinations of people who claim to have been tortured, and he has never applied the Istanbul Protocol, a widely accepted procedure for examining torture victim claims. Dr. [redacted] has these qualifications. On this basis alone, Col. [redacted] would be open to withering cross-examination by the very government who claims he is an adequate substitute for Dr. [redacted] Additionally, and most importantly for the defense's preparation of this case, there is a high likelihood that Col. [redacted] could not establish a rapport with the accused because he lacks several qualifications Dr. [redacted] has. For example, Col. [redacted] is still a uniformed officer; he has specifically worked for the government, not the defense, in GTMO detainee cases; and, has worked for the defense of soldiers accused of abusing detainees. These facts appear on his CV, and the defense would have to share this information with the client.

4. Facts:

a. In January 2002, the accused was confined at Guantanamo Bay Naval Base, Cuba (GTMO). He was subjected to torture, abuse and cruel, inhuman and degrading treatment and coercive interrogation tactics and confinement conditions.

b. On 18 November 2009[1], the defense sought funding from the Convening Authority for Dr. [redacted] to assist the defense in trial preparation. **Attachment A.** The government opposed. **Attachment B.** On 18 December 2009, the Convening Authority granted the request for a psychiatric expert, but denied the request for Dr. [redacted] The Convening Authority wrote, "The government has identified Colonel [redacted], U.S. Army, as an adequate substitute for Dr. [redacted]" **Attachment C.**

c. On 24 November 2009, more than a year after the Military Commission threatened the government with sanctions if it did not immediately turn over all discovery, the government turned over Bates pages 9,132-10,936, and 10,937-15,541, plus a couple hundred unstamped pages (i.e., more than 6,00 pages of discovery). Many of these pages appear related directly to interrogations.

d. On 2 December 2009, a hearing of this case was held at GTMO to address whether Mr. al Qosi was entitled to an initial determination of his status, that is, whether he qualified as an unprivileged enemy belligerent – a predicate for the jurisdiction of this commission. The Military Judge ruled that such a jurisdictional hearing was required, and scheduled it for 6 January 2010. This hearing was subsequently continued to presently pending date, 17 February 2010. *See* MJ-010; P-0010;[2]

e. On 7 January 2010, the government moved to pre-admit, for purposes of the jurisdictional hearing, statements the defense contends were coerced. With this motion, the government created a need for a hearing regarding the voluntariness of Mr. al Qosi's statements – a hearing that ordinarily would not take place until some time closer the trial of a case on its merits.

f. On 12 January 2010, the military judge, in an RMC 802, conference ordered the defense to file any motions to compel experts related to the suppression motion.

g. On 13 January 2010, the defense interviewed Col. [redacted] Col. [redacted] explained how he had come to be considered an "adequate substitute" for Dr. [redacted]. Months before the

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[1] Charges in the present case were referred in February 2008. Following the litigation of certain jurisdictional motions (which remain pending ruling as of this filing), this case was stayed, by Executive Order, from January 2009 until November 13, 2009.

[2] At this same hearing, nearly eight years after Mr. al Qosi's capture, and more than five years after he was first charged in commission, the government sought to enlarge the allegations against Mr. al Qosi by requesting to add twelve overt acts to the conspiracy charge; these allegations, if ultimately added, will broaden the scope of liability by four years, and would add several more countries to the defense investigation.

defense submitted its request for Dr. [redacted], a Department of Defense attorney, completely unconnected to this case, approached Dr. [redacted] This DOD attorney and Dr. [redacted] were working together because Col. [redacted] was in the process of conducting what would turn out to be two RMC 706 boards on another detainee. The DOD attorney then inquired whether Col. [redacted] "also did defense cases." Col. [redacted] responded, "Yes," and no further discussion occurred.

h. The next time Col. [redacted] heard anything about working on a defense case was on 7 January 2010, when undersigned defense counsel called him and informed him the CA had identified him as a consultant for the defense. According to Col. [redacted] the government never showed him the defense request for Dr. [redacted] and never asked him any questions about whether he was qualified to conduct the type of examinations Dr. [redacted] is qualified to perform.

i. Upon being interviewed, Col. [redacted] frankly admitted he has never conducted a forensic psychiatric examination of a patient who claimed to have been tortured. He has no expertise in the area of torture. He has never applied the Istanbul Protocol, which among trained torture examiners is the "gold standard" for ensuring an effective interview and medical examination. He has never interviewed a detainee at Guantanamo Bay.

j. On the other hand, he has served as the Chief of a Behavioral Science Consultation Team (BSCT) in Iraq, where his mission, along with another officer, was to observe interrogations and provide interrogators with tactics for conducting interviews. None of this work involved conducting a forensic examination of a patient who claimed to have been abused. Furthermore, his resume reflects a host of assignments as a *prosecution* consultant, the most relevant being his work on the *U.S. v. Khadr* Military Commission.

k. He has, in fact, served as a defense consultant in cases. The most relevant of these assignments, however, has involved him working for the defense of soldiers accused of abusing detainees: the 2009 murder of a detainee in Iraq (*U.S. v. Leahy*); and the 2005 Abu Ghraib detainee abuse (*U.S. v. Davis*). **Attachment D.**

5. Argument:

A. The Convening Authority Conceded the Relevance and Necessity of Expert Psychiatric Consultation for the Defense

As a starting point, the relevance and necessity of expert psychiatric consultation in this case are clear on the papers, particularly since the CA conceded the point by granting Col. [redacted] The government has also conceded that it intends to rely heavily on the Mr. Al Qosi's statements to establish jurisdiction, and likely thereafter to try and convict him. The concern that the statements Mr. Al Qosi made may be unreliable and involuntary in whole or in part raises the need for psychiatric assistance. *See United States v. Mahers*, 2008 CCA LEXIS 620 (NMCCA 2008)(unpub'd)(reversing the trial judge's refusal to allow the defense's psychiatrist to complete her examination of the accused, where the government relied heavily on the accused's statements to convict and where the psychiatrist might have been able to develop evidence supporting the involuntariness of the accused's statements). **Attachment E.** The defense also must be afforded

the ability to present to a fact-finder determining a sentence the psychological impact of long-term, seemingly interminable and oppressive confinement conditions on the accused. That issue alone warrants psychiatric assistance for the defense. The concerns about abuse and possible torture only add to this pressing need.

So necessity is not questioned. The ultimate question presented here is whether Col. [redacted] is an adequate substitute for Dr. [redacted] He is not for at least two reasons. First, he is not qualified to conduct a forensic psychiatric examination involving torture allegations. By his own admission he has no experience, much less expertise, in this area. Second, his specific military work experience will prejudicially hamper or completely preclude his successfully evaluating Mr. Al Qosi and his claims.

B. Col.[3] [redacted] is Not an Adequate Substitute for Dr. Xenakis because He is Not Qualified to Conduct a Forensic Examination for Allegations of Torture

Put simply, Col. [redacted] is not qualified to conduct an evaluation of torture allegations. *See United States v. Ndanyi*, 45 M.J. 315 (CAAF 1996)(explaining that an "unqualified" substitute is not adequate for the defense). By Col. [redacted] own candid admission he has no experience, much less expertise, in this area. *See* **Attachment D.** Conducting a torture examination requires experience and training in the field. The Istanbul Protocol (IP), a protocol developed by representatives of countries around the world including the United States, is the standard set by the field of torture experts for conducting such interviews. *See* Office of the UN High Commissioner for Human Rights, Professional Training Series No. 8/Rev.1, Istanbul Protocol: Manual on Effective Investigation and Documentation of Torture and Ill Treatment (2004) HR/P/PT/8/Rev.1, available at http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf. While Col. [3] [redacted] was familiar with what the IP was, he had never utilized it, and understandably so, because he has never interviewed someone claiming they were tortured.

On the other hand, Dr. [redacted] has interviewed persons alleging they were tortured. He is specifically familiar with the GTMO detainee population in that he has interviewed Omar Khadr, a Military Commissions defendant, whose claims of torture are well-reported. *See, e.g.,* Tietz, Jeff. "The Unending Torture of Omar Khadr," *Rolling Stone.Com*, 10 August 2006, accessed at http://www.rollingstone.com/politics/story/11128331/follow_omar_khadr_from_an_al_qaeda_childhood_to_a_gitmo_cell. He has also interviewed Musa-ab al-Madhwani, another GTMO detainee who claims he was tortured. *See* Worthington, Andy, "'Model Prisoner' at Guantánamo, Tortured in the 'Dark Prison,' Loses Habeas Corpus Petition," undtd, available at http://freedetainees.org/7715. Dr. Xenakis has also conducted clinical interviews of persons allegedly tortured by the Iraqi government.

Additionally, Dr. [redacted] has made torture and coercive interrogations a key focus of his work over the past several years. For example, his most recent publication entitled "Prisoner of Wars: The Use of Torture and Psychological Warfare," is directly on point for the issue in this case. *See* Attach B, Encl 1. Dr. [redacted] is regarded as a key expert on these matters. For example, Physicians for Human Rights First, sought him out for peer review of its extensive 2007 and 2008 reports on detainee abuse. *See* Physicians for Human Rights First, "Leave No

Marks: Enhanced Interrogation Techniques and the Risk of Criminality," August 2007, at ix (thanking Dr. [redacted], among others, for "review" and "detailed comments" on the report) accessed at http://www.scribd.com/doc/13767892/Leave-No-MarksEnhanced-Interrogation-Techniques-and-the-Risk-of-Criminality; *see also* "Broken Laws, Broken Lives: Medical Evidence of Torture by US Personnel and Its Impact" at vi (noting Dr. Xenakis "offered detailed comments on the medical evaluations and, along with Drs. [redacted] and [redacted] reviewed the medical records of one of the detainees held at Guantánamo.") Finally, Dr. [redacted] has conducted case reviews for the Centers for Victims of Torture, a non-profit that since 1985 has worked with some 18,000 torture victims around the world. See http://www.cvt.org/ (CVT's website).

Col. [redacted] for all his experience and training in other areas, simply has not developed the expertise in the kind of interviewing necessary to assist the defense in preparing its case here. Such inexperience with torture allegations would subject Col. [redacted] to damaging cross-examination by the very government who claims he is an adequate substitute for Dr. [redacted] Col. [redacted] conceded as much when the defense interviewed him.

C. Col. [redacted] is Not an Adequate Substitute for Dr. [redacted] because His Specific Military Work Experience Will Hamper or Preclude his Forming a Relationship of Trust with the Client

It is indisputable that a relationship of trust is a *sine qua non* of a productive psychiatric relationship. Col. [redacted] ability to form such a relationship with Mr. Al Qosi is highly doubtful, and even if Mr. Al Qosi's objections could be overcome, it would be such a time-consuming process that it would prejudice the defense.

There are several factors that will make it difficult for Col. [redacted] to gain Mr. Al Qosi's trust. First, Col. [redacted] has participated in the defense of detainee abusers and a detainee *killer*. Specifically, Col. [redacted] CV indicates he supported the defense counsel in three troublesome cases: 1) for an Abu Ghraib guard who abused a detainee (*Davis* 2005), 2) for a soldier accused of *murdering* a detainee in Iraq (*Leahy* 2009) and 3) for a sailor accused of abusing a detainee in Camp Bucca, Iraq (*Necaise* 2009). The defense cannot ethically, and would not anyway, hide Col. [redacted] CV from Mr. Al Qosi. Accordingly, these matters are going to become points of extremely high concern for Mr. Al Qosi. Mr. Al Qosi already appears hyper-vigilant; the defense should not be forced to add fuel to the fire of his distress, nor should it be placed in a position of expending the trust it has gained with him by trying to compel him to work with someone whom he would find abhorrent. The government apparently put little effort into identifying Col. [redacted] as the substitute expert in this case – it never even informed Col. [redacted] of the purpose of his consultation with the defense in this case, much less inquired with him about any qualifications he may have that matched those of Dr. [redacted] If the government had wanted an expert who was going to have problems forming a positive relationship with a detainee who claims he was abused, they could not have done a better job.

Second, from 2007-2008, Col. [redacted] served as the Chief of the Behavioral Science Consultation Team (BSCT) at Camp Cropper, Iraq. According to him, he and one other officer were actively engaged in helping interrogators develop plans and methods of interrogating detainees. Furthermore, it was BSCTs that were so controversially involved in the reverse

engineering of SERE tactics at GTMO. While BSCTs have supposedly stopped coercive interrogation tactics (and while the defense does not allege Col. [redacted] improper involvement in any interrogations), it would nonetheless highly disturb any detainee, including Mr. Al Qosi, that the individual to whom they are expected to reveal intimate, traumatic details may have been engaged in coercive interrogations. Col. [redacted] explains he eschews the use of coercion, but convincing the client of that will be a challenge since his job on the BSCT was essentially to tell interrogators how to trick, cajole and push detainees, albeit legally and ethically, into talking.

Third, as Col. [redacted] CV demonstrates, he has worked on five detainee cases: Anam (2009), Slahi (2009), al-Hawsawi (2009), Khadr (2009), Abbasi (2003). In the al-Hawsawi and Abbasi cases he performed competency evaluations – once for the government, and once for the defense (al Hawsawi, where the defense asked the government to propose an expert); competency, however, involves a different assessment than what the defense seeks to accomplish here. In the Anam, Slahi (involving federal habeas petitions) and Khadr cases, however, he participated directly with the government in developing a case to prevent the release of the detainees. In one of the habeas cases, he developed an affidavit the government used in its opposition to the petition. The defense does not know what he is doing on Mr. Khadr's case, but of course it will be obvious to Mr. Al Qosi that besides him, Mr. Khadr is the only detainee with currently pending charges – a fact that suggests whatever Col. [redacted] is doing on Mr. Khadr's case, it is not working in Mr. Khadr's favor.

It is also important to recognize the real (or perceived) bias that Col. [redacted] will bring to the evaluation sought here. Having overseen interrogations and BSCT teams, and having approved interrogation plans (including plans that may have employed the very techniques used on Mr. Al Qosi), he will inevitably have the very human inclination to protect or defend techniques he himself approved to be used on others; it would be nearly impossible for anyone to assess anew and cleanly, an interrogation technique the approved in another context. Even if Col. [redacted] is able to erase himself of any such natural bias, the perception will be present that any evaluation he conducts may be colored by his experiences supervising and approving interrogation methods.

The fact that Col. [redacted] has almost exclusively worked for the government on detainee cases (and that in the one case where he was working for the defense, he was assigned as government-proposed expert), moreover, will suggest to Mr. Al Qosi that Col. [redacted] is working against the interests of detainees, particularly since Col. [redacted] will be unable, legally and ethically, to reveal details about his consultancy in the other cases. It is too much to ask the defense to try to dispel Mr. Al Qosi of this notion. Too much goodwill with the client will have to be used up on getting Col. [redacted] in the door to meet with Mr. Al Qosi, while none of this would be an issue with Dr. [redacted]

Fourth, Col. [redacted] is still on active duty in the military. He must conduct his interviews in uniform or engage in a subterfuge by not wearing his uniform. As the Commission well knows, gaining the trust of the accused has been a difficult process for the uniformed officers – this is understandable, considering Mr. Al Qosi's long tenure at GTMO and tortuous history with the commissions process. An active duty psychiatrist will be hampered from the outset. Having retired from the military, and having worked on similar cases, Dr. [redacted] does not suffer from this difficulty.

D. Conclusion

Considering all these factors, it simply is unfair to saddle the defense with all the troubles Col. [redacted] appointment will cause. The defense does not dispute that Col. [redacted] is a highly qualified forensic psychiatrist or that he was anything less than friendly and forthright with the defense. The opposite is true. He simply is not qualified for this particular case on these particular facts for all the reasons cited above. Dr. [redacted] is. Accordingly, the defense requests the Commission order the CA to fund Dr. [redacted] in the manner detailed in Attachment A.

6. Attachments:

A. Defense Request to Convening Authority for Appointment of Defense Psychiatric Consultant, Dr. [redacted] M.D., ICO United States v. Ibrahim al Qosi, dtd 18 November 2009

B. Government Memorandum to Convening Authority Regarding Defense Request for Dr. [redacted] dtd 23 November 2009

C. Convening Authority Response to Request for Expert Assistance of Dr. [redacted] US v. of Qosi, undtd (sent via email 18 December 2009)

D. Colonel [redacted] CV (undtd)

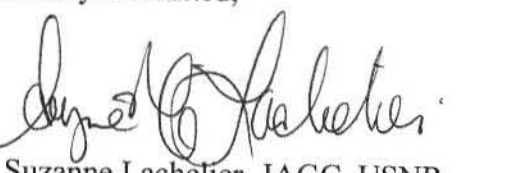
E. *United States v. Mahers*, 2008 CCA LEXIS 620 (NMCCA 2008)(unpub'd)

7. Oral Argument: The Defense requests Oral Argument as it is entitled to pursuant to R.M.C. 905(h), should the Commission be inclined to deny this motion.

8. Certificate of Conference: As noted in Attachment B, the government opposed the requested.

9. Additional Information: In making this motion, or any other motion, Mr. Al Qosi does not waive any of his objections to the jurisdiction, legitimacy, and/or authority of this Military Commission to charge him, try him, and/or adjudicate any aspect of his conduct or detention. Nor does he waive his rights to pursue any and all of his rights and remedies in all appropriate forums.

Respectfully submitted,

By: 

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Office of the Chief Defense Counsel
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Attachment A

DEPARTMENT OF DEFENSE
OFFICE OF THE CHIEF DEFENSE COUNSEL
OFFICE OF MILITARY COMMISSIONS

18 November 2009

MEMORANDUM FOR THE CONVENING AUTHORITY

From: CDR Suzanne M. Lachelier, JAGC, USN, Detailed Defense Counsel
LCDR Travis J. Owens, JAGC, USN, Detailed Defense Counsel
MAJ Todd E. Pierce, JAGC, USA, Detailed Defense Counsel

To: Susan J. Crawford, Convening Authority, Office of Military Commissions

Subj: REQUEST FOR APPOINTMENT OF DEFENSE PSYCHIATRIC CONSULTANT, DR. [redacted] M.D., ICO *UNITED STATES V. IBRAHIM AL QOSI*

Ref: (a) Rule for Military Commissions 703(d), MMC, 2007
(b) *U.S. v. Garries,* 22 M.J. 288 (1986)
(c) U.C.M.J., Art. 46
(d) U.S. Const. Amend. V, VI, VIII
(e) Army Field Manual (FM) 34-52

Encl: (1) C*urriculum vitae* of Dr. [redacted] M.D.
(2) Fee schedule for Dr [redacted]

1. On behalf of Mr. al Qosi, the defense respectfully requests you approve Dr. [redacted] M.D. as a defense consultant in psychiatry. Mr. Ibrahim al Qosi is charged with Conspiracy, in violation of 10 U.S.C. § 950v(b)(28), and Providing Material Support for Terrorism, in violation of 10 U.S.C. § 950v(b)(25).

2. Dr. [redacted] assistance is necessary to advise the defense regarding psychiatric issues in the case, including *inter alia*, the effects of various confinement conditions on Mr. Al Qosi, such as incommunicado detention, isolation, physical and psychological abuse, and interrogation techniques that involve the risk of eliciting unreliable statements from suspects. Furthermore, Dr. [redacted] would conduct a psychiatric examination of Mr. al Qosi to determine whether Mr. al Qosi has been subjected to psychological and/or physical trauma and, if so, to determine whether he suffers from temporary or permanent effects.

3. Enclosure (1) is Dr. [redacted] *curriculum vitae* and enclosure (2) is his fee schedule. The defense initially requests $24,000 funding for an initial psychiatric examination.

4. Expert consultant's address and telephone number:

[redacted]

5. References (a) and (b) require the defense to explain why Dr. [redacted] is relevant and necessary.

a. *Relevance*:

i. Mr. Al Qosi was allegedly captured after fleeing Tora Bora, Afghanistan. Pakistani persons then allegedly turned him over to U.S. forces and he was held at Quandahar, Afghanistan, before being sent to Guantanamo Bay, Cuba (GTMO). Little is known about his treatment at Quandahar, Afghanistan and at GTMO because the defense is untrained in helping long-term detainees recall with any detail, sensitive, traumatic and embarrassing information. Additionally, the government has denied production of discovery regarding these matters.

ii. Mr. Al Qosi was transported to GTMO in the first week Camp X-Ray was opened. Camp X-ray was the first detention camp used at GTMO, following the onset of the war in Afghanistan. Conditions at Camp X-Ray have been widely reported. Along with having been in kennels and humiliated by guards, Mr. Al Qosi was subjected to other forms of abuse, both physical and psychological. Some of this abuse he has been reticent to discuss with defense counsel. A psychiatrist like Dr. [redacted] would help the defense break through the psychological barriers involved in drawing out relevant information from Mr. Al Qosi. Furthermore, Dr. [redacted]' expertise would help the defense understand the psychological impact of this abuse, and allow the defense to determine whether to present this information in a hearing aimed at suppressing statements, or in any hearing where the matter is relevant.

iii. Open source information indicates that interrogations took place at GTMO in 2002 and 2003 that did not conform with Army Field Manual (FM) 34-52 methods. In his time at GTMO, Mr. al Qosi has been interrogated well over thirty times, and the government intends to use statements obtained during these interrogations against Mr. Al Qosi at trial. The defense has a good faith belief that in conjunction with his interrogations, Mr. al Qosi was subjected to treatment and interrogation methods that fell outside the strictures of FM 34-52. Consequently, this case involves complex questions of the reliability of statements resulting from these interrogations, and also the impact of conditions of confinement imposed on Mr. al Qosi at GTMO. Dr. [redacted], as explained *infra*, is an expert psychiatrist with experience in the forensic psychological examination of detainees, who has specific experience examining GTMO detainees.

b. *Qualifications*:

i. Dr. [redacted] is a clinical psychiatrist and an expert in the evaluation and treatment of psychological and physical abuse. He is retired from the United States Army as a Brigadier General. His assignments while on active duty include Commander, Blanchfield Army Community Hospital and Commanding General, Southeast Regional Medical Command and Dwight David Eisenhower Army Medical Center.

ii. He is board certified in general psychiatry (and child psychiatry) by the American Board of Psychiatry and Neurology. He is also board certified by the National Board of Medical Examiners and the American Board of Medical Management. He has consulted on the cases of *United States v. Jawad*, *United States v. Khadr* and *United States v. Al Nashiri*, and is thus uniquely qualified to work on this GTMO-detainee case. Dr. [redacted] has previously been approved as an Expert Witness under the Rules for Military Commissions.

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iii. He is currently in private practice.

c. *Necessity*:

i. Defense counsel lack the knowledge, education, training and experience to carry out the type of psychiatric evaluation described above. It would be impossible, during the course of defending this case, to gain the knowledge necessary to understand all the issues at play in such a complex case. The defense therefore requests the services of Dr [redacted] because he has the appropriate training, expertise in the area of psychiatric examinations of prisoners, and specific experience relevant to this case, to consult effectively with the defense. Dr. [redacted] s up to date on the medical literature relevant to conditions of confinement and the effects of coercive interrogations.

ii. When the government builds its case around expert testimony or evidence compiled and created by an expert on a complicated subject such as this one, basic equality of arms necessitates that the defense be afforded the opportunity to introduce evidence from its own experts in rebuttal. "[T]he playing field at trial is rendered even more uneven when the Government benefits from scientific evidence and expert testimony while the defense is wholly denied a necessary expert to prepare for and respond to the Government's expert." *United States v. Lee*, 64 M.J. 213, 218 (C.A.A.F. 2006); *see also United States v. Warner*, 62 M.J. 114, 120 (C.A.A.F. 2005). The defense is entitled to an expert to evaluate and respond to evidence created by the government's expert. *See Lee*, 64 M.J. at 218.

iii. Finally, Dr. [redacted] is the type of expert one would expect to see assisting the defense in Article III federal criminal trials. *See* 10 U.S.C. §949j (explaining that in military commissions "[t]he opportunity to obtain witnesses and evidence shall be comparable to the opportunity available to a criminal defendant in a court of the United States under Article III of the Constitution.")

6. Estimated Costs:

a. Total hours/days and total cost:

Enclosure (2) is Dr. [redacted] fee schedule. Dr. [redacted] charges $400.00 per hour for his services. Dr [redacted] estimates he will need sixty hours to conduct his examination (including meetings with the client and document review) and to consult with the defense. The defense therefore initially requests $24,000 (60 hours x $400) in funding for professional services plus the amounts shown below for TDY and travel costs.

b. Total days TDY at the *per diem* rate (such as travel days): 12 days

It is anticipated that Dr. [redacted] will have to meet with Mr. al Qosi on several different occasions. A psychological examination involves trust building, which does not happen in a few sessions over the course of a few consecutive days. Thus, the defense would expect that Dr. [redacted] would have to travel to GTMO (or wherever Mr. al Qosi is located) on three occasions, with three to four days for each trip.