

1 **[The R.M.C. 803 session was called to order at 0904,**
2 **24 January 2024.]**

3 MJ [Lt Col BRAUN]: This commission is called to order.

4 Trial Counsel, are all the government counsel who were
5 present at the close of the previous session present again today?

6 TC [COL KRAEHE]: Good morning, Your Honor. Yes, they are.

7 MJ [Lt Col BRAUN]: And, Trial Counsel, can you affirm that
8 these proceedings are being transmitted by closed-circuit television
9 to the United States in compliance with the commission's order in
10 Appellate Exhibit 0007.006 (TJ)?

11 TC [COL KRAEHE]: Yes, they are, Your Honor.

12 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin, are all members
13 of your team present today who were present at the last recess of
14 this commission?

15 CDC [MS. FUNK]: Yes, Your Honor.

16 MJ [Lt Col BRAUN]: Thank you.

17 Counsel for Mr. bin Lep, are all members of your team who
18 were present when the commission last recessed again present this
19 morning?

20 LDC [MR. BOUFFARD]: Good morning, Your Honor. And yes, they
21 are.

22 MJ [Lt Col BRAUN]: I also note that both accused are present
23 this morning in the courtroom.

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1 Before we call the members, there's some housekeeping
2 matters that I would like to take up, the first dealing with
3 Prosecution Exhibit 34 for identification, the government's index.

4 MDTC [Lt Col GOEWERT]: Your Honor, the index is marked 35.
5 34 is the Britten letter.

6 MJ [Lt Col BRAUN]: My apologies. Prosecution Exhibit 35 for
7 identification.

8 MDTC [Lt Col GOEWERT]: Yes, Your Honor. Thank you very much.
9 Good morning.

10 We would move to admit Prosecution Exhibit 35 for
11 identification into evidence as Prosecution Exhibit 35. I note we
12 have had some discussions with court personnel about the appropriate
13 language to use when describing Prosecution Exhibits 2 and 4.

14 Currently the index states that it's omitted. We think that
15 that word is correct because we are -- it is admitted into evidence.
16 We are simply not providing it to the panel. We would simply ask
17 that Your Honor instruct the members that those are translations and
18 are simply not being provided to the panel; and, therefore, they
19 would draw no native conclusion or inference from the word "omitted";
20 and, therefore, we can proceed accordingly this morning.

21 MJ [Lt Col BRAUN]: Okay. Counsel, do you have a working copy
22 of Prosecution Exhibit 35 for the commission?

23 MDTC [Lt Col GOEWERT]: I do, Your Honor. I will provide that

1 to you.

2 **[Pause.]**

3 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin, have you had an
4 opportunity to see Prosecution Exhibit 35 for identification?

5 CDC [MS. FUNK]: I have, Your Honor.

6 MJ [Lt Col BRAUN]: Do you have any objection to Prosecution
7 Exhibit 35 for identification, understanding the use of the term
8 "omitted"?

9 CDC [MS. FUNK]: I do not. Thank you.

10 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

11 LDC [MR. BOUFFARD]: We have seen it. We have no objection.

12 MJ [Lt Col BRAUN]: Well, perhaps an easier way to have
13 addressed this would have been to simply not reference Prosecution
14 Exhibits 2 and 4 and just have the commission instruct the panel
15 members as to why the prosecution exhibits might not be in numerical
16 sequence. The same could have applied for 30, 31, 33, and 25.

17 I believe that an instruction to the panel members, while
18 "omitted" might not be my preference, an instruction to the panel
19 members that they simply will not be receiving Prosecution Exhibits 2
20 and 4, as they contain translations.

21 And then during sentencing, should the parties request, the
22 court can provide a tailored instruction similar to the redacted
23 instruction that military courts-martial typically utilize to inform

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1 the members not to speculate as to Prosecution Exhibits 25, 30, 31,
2 33 and their contents, as they do not have those particular matters.

3 The reason "omitted" is not the correct or the preferred
4 term of the commission is Prosecution Exhibits 2 and 4 were not
5 admitted into evidence. They were merely marked as translations. So
6 they actually would have the same status as Prosecution Exhibit 25,
7 30, 31, and 33.

8 Understanding that, Trial Counsel, do you want to still
9 utilize Prosecution Exhibit 35 for identification as written?

10 MDTC [Lt Col GOEWERT]: Your Honor, we would prefer to keep
11 going this morning and use this index as provided to the panel -- or
12 provided to the commission.

13 MJ [Lt Col BRAUN]: Okay. Okay. Very well, then.
14 Prosecution Exhibit 35 for identification will be admitted as
15 Prosecution Exhibit 35.

16 Trial Counsel, before I call the members, do you intend to
17 read the Stipulation of Fact to the panel members?

18 TC [COL KRAEHE]: Not at this time, Your Honor.

19 MJ [Lt Col BRAUN]: Okay.

20 TC [COL KRAEHE]: Your Honor, we did have one other matter we
21 wanted to address to the commission.

22 To facilitate examination of the witnesses, we would ask
23 that all the prosecution exhibits be published to the panel this

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1 morning all together.

2 I believe that counsel for Mr. bin Amin also wish to publish
3 all of their exhibits at the same time, whereupon we could take a
4 recess for an appropriate period of time to allow the panel to review
5 and examine those exhibits before we call the witnesses.

6 MJ [Lt Col BRAUN]: Okay. Counsel for Mr. bin Amin?

7 CDC [MS. FUNK]: That is correct, Your Honor.

8 MJ [Lt Col BRAUN]: Okay. So the intent would be to publish
9 all of the exhibits as soon as we call the members this morning and
10 then allow them an opportunity, a recess to review those matters.

11 Is that the timing you are envisioning, Trial Counsel?

12 TC [COL KRAEHE]: Correct, Your Honor.

13 MJ [Lt Col BRAUN]: Okay.

14 LDC [MR. BOUFFARD]: Your Honor, just so the record is clear,
15 that would not include Mr. bin Lep's exhibit.

16 MJ [Lt Col BRAUN]: Okay. And based upon that, do you have an
17 objection to that way forward, Mr. -- Counsel for Mr. bin Lep?

18 Excuse me.

19 LDC [MR. BOUFFARD]: No, sir.

20 MJ [Lt Col BRAUN]: Okay. So the -- I know there was -- over
21 the recess, I asked defense counsel to get with the court reporters
22 regarding the markings of some of the defense exhibits to make sure
23 that everything was appropriately marked. Has that been

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1 accomplished?

2 DC [LCDR CURTIS]: Yes, Your Honor, it has for Mr. bin Amin.

3 MJ [Lt Col BRAUN]: Okay. Do you have a working copy of those
4 documents? Understanding you plan to publish them, I would assume
5 you do have a -- at least a working copy the commission could look at
6 to ensure that the markings are correct before we move to
7 publication?

8 DC [LCDR CURTIS]: Yes, Your Honor, we do. Additionally, we
9 have what's been marked as Defense Exhibit AA (AMI), which is the
10 index of Mr. bin Amin's sentencing exhibits that we'd like to move to
11 admit as well.

12 MJ [Lt Col BRAUN]: Okay. So I need a working copy, and can
13 you please ensure all other parties have a working copy to review of
14 this -- oh, I stand corrected. I have a working copy.

15 Have the other parties been provided a copy of Defense
16 Exhibit AA (AMI) for identification?

17 DC [LCDR CURTIS]: Yes, Your Honor, with the correction that
18 it was originally marked Defense Exhibit Z (AMI), and is now AA. We
19 are reprinting to reflect that change.

20 MJ [Lt Col BRAUN]: So what is Defense Exhibit Z (AMI) for
21 identification?

22 LDC [MR. BOUFFARD]: It's Z (LEP), sir.

23 MJ [Lt Col BRAUN]: Okay. So we're reserving that for your

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1 exhibit that you previously provided a working copy of; is that
2 correct, Counsel?

3 LDC [MR. BOUFFARD]: Yes, sir. It's actually been marked as
4 such.

5 MJ [Lt Col BRAUN]: Okay. Thank you.

6 The copy I have does list Defense Exhibit Z (AMI) as
7 Mr. bin Amin's defense exhibits index. Has that been corrected?

8 DC [LCDR CURTIS]: Yes, Your Honor. It's being printed now to
9 be updated in the member copies as well. We'll have that shortly.

10 MJ [Lt Col BRAUN]: Okay. Five minutes?

11 DC [LCDR CURTIS]: Yes, Your Honor.

12 MJ [Lt Col BRAUN]: Okay. I ask because I'm not comfortable
13 admitting something until I can see it in its final form, especially
14 if the anticipation of the parties is to immediately publish those
15 matters to the panel.

16 So what we're going to do is we're going to take that
17 five-minute recess to allow you to get that, ensure it's properly
18 marked with the court reporter, ensure I can see a copy. And then if
19 you could please ensure that the commission's provided a working copy
20 of those finalized exhibits just so that we can confirm with the
21 court reporter that the markings are correct so that we don't have
22 any issues on that.

23 I think we should be able to accomplish all that over this

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1 next recess, and that will put us in the position where then we can
2 call the panel. We can publish everything to the panel as the
3 parties have requested, reserving Defense Exhibit Z (LEP) for later
4 publication at the request of counsel, if it's so desired, and then
5 hopefully continue on.

6 Is there anything else we need to take up before this
7 five-minute recess?

8 Trial Counsel?

9 TC [COL KRAEHE]: Not from the government, Your Honor. Thank
10 you.

11 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin?

12 CDC [MS. FUNK]: Nothing, Your Honor. Thank you.

13 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

14 LDC [MR. BOUFFARD]: Nothing Your Honor.

15 MJ [Lt Col BRAUN]: Very well. This commission's in a
16 five-minute recess.

17 **[The R.M.C. 803 session recessed at 0916, 24 January 2024.]**

18 **[The R.M.C. 803 session was called to order at 0931, 24 January 2024]**

19 MJ [Lt Col BRAUN]: This commission will come to order. All
20 parties that were present when the commission recessed are again
21 present. Members remain absent.

22 Over the recess defense counsel provided the commission a
23 working copy of what has been identified as Defense Exhibit AA (AMI)

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1 for identification.

2 Defense Counsel, have the other parties been provided a copy
3 of this exhibit as well?

4 DC [LCDR CURTIS]: Yes, Your Honor.

5 MJ [Lt Col BRAUN]: Very well.

6 I've reviewed it. It does contain the correction you
7 discussed on the record.

8 Any objection to what has been identified as Defense Exhibit
9 AA (AMI) for ID?

10 Trial Counsel?

11 TC [COL KRAEHE]: No objection, Your Honor.

12 MJ [Lt Col BRAUN]: Any objection, Counsel for Mr. bin Lep?

13 LDC [MR. BOUFFARD]: No objection, Your Honor.

14 MJ [Lt Col BRAUN]: Very well, then.

15 Defense Exhibits (AMI) A through Y, as well as Defense
16 Exhibits (AMI) AA for identification are all admitted into evidence.

17 I will note also, just for clarity of the record, that over
18 the recess the commission did have an opportunity to review the
19 markings of the defense exhibits, and they're all accurate. I do
20 thank the defense team for providing the commission a working copy.

21 Trial Counsel, in crafting the instruction I'm going to give
22 the members regarding the prosecution index, I'm not -- I'm electing
23 not to inform them that Prosecution Exhibits 2 and 4 contain

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1 translations, merely that those are matters not properly before them.
2 I don't think describing the document is of any use to the panel
3 member.

4 Merely, I'm going to inform them that they do not have the
5 prosecution exhibits listed as omitted, nor do they have the
6 prosecution exhibits marked as not admitted on your index, and they
7 are not to speculate as to the content or natures of those particular
8 exhibits as they are not properly before them.

9 Is there any objection to that approach?

10 Trial Counsel?

11 TC [COL KRAEHE]: No objection, Your Honor.

12 MJ [Lt Col BRAUN]: Any objection, Counsel for Mr. bin Amin?

13 CDC [MS. FUNK]: No, Your Honor.

14 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

15 LDC [MR. BOUFFARD]: No issues, sir.

16 MJ [Lt Col BRAUN]: Very well.

17 I believe we are at a place where we can call the members.

18 Is there anything else we need to take up before I do so?

19 Trial Counsel?

20 TC [COL KRAEHE]: No, Your Honor.

21 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin?

22 CDC [MS. FUNK]: Nothing. Thank you.

23 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

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1 LDC [MR. BOUFFARD]: Your Honor, the panel at this point is
2 not aware of the reason why everybody's cadence is going to seem
3 artificially slow as to the necessity of accommodating the
4 translations. I'd ask that maybe the court consider advising them of
5 that.

6 MJ [Lt Col BRAUN]: Yeah. I alluded to it a little bit
7 yesterday without being very explicit. I did plan on doing that
8 today, appreciating that there will be witness testimony that may
9 seem different, so that they just understand what's going on. I
10 don't think that's inappropriate under the circumstances.

11 Any objection to the commission making the panel members
12 aware of the translation process and the challenges -- and that's
13 probably not the correct word -- but the way that may impact the
14 proceeding?

15 Trial Counsel?

16 TC [COL KRAEHE]: No objection, Your Honor.

17 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin?

18 CDC [MS. FUNK]: No, Your Honor. No objection. Thank you.

19 MJ [Lt Col BRAUN]: Thank you.

20 Very well, then. Anything else?

21 Counsel for Mr. bin Lep?

22 LDC [MR. BOUFFARD]: No, sir. Thank you.

23 MJ [Lt Col BRAUN]: Bailiff, please call the members.

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

2 **[The military commission was called to order at 0937,**
3 **24 January 2024.]**

4 MJ [Lt Col BRAUN]: This commission will come to order.

5 Parties are present. Members are present.

6 Members, at this time we will begin the sentencing phase of
7 this commission.

8 I have previously admitted into evidence Prosecution
9 Exhibits 1, 3, 5 through 24, 26 through 29, 32, 34, and 35, as well
10 as Defense Exhibits (AMI) A through Y, and AA, which are sentencing
11 exhibits being offered by the parties.

12 You will have these exhibits available to you during your
13 deliberations. In fact, the parties are going to publish those
14 exhibits to you shortly here. So you -- my plan is to give you a
15 lengthy recess to allow you to review those exhibits prior to us
16 proceeding.

17 At this time, Trial Counsel, do you have a request you'd
18 like to make?

19 TC [COL KRAEHE]: Yes, Your Honor. At this time we would
20 request that the commission allow us to publish to the panel
21 Prosecution Exhibits 1, 3, 5, 24, 26 through 29, 32, 34, and 35.

22 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin, any objection?

23 CDC [MS. FUNK]: No objection, Your Honor. Thank you.

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1 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

2 LDC [MR. BOUFFARD]: No objection.

3 MJ [Lt Col BRAUN]: Okay. Very well, Counsel. You may
4 proceed.

5 And, Panel Members, while trial counsel is publishing those
6 exhibits to you, you will notice that in the index, and as the
7 exhibits were described to you, there are some that were not
8 included. On your index you'll see the word "omitted" as it relates
9 to Prosecution Exhibits 2 and 4, as well as the word "not admitted"
10 next to Prosecution Exhibits 25, 30, 31, and 33.

11 These are matters that I have not placed before you based
12 upon a determination I have made. You are not to speculate about
13 those exhibits at all. They're simply not before you. So while the
14 numbering will seem weird, I just ask you to ignore the numbering and
15 look at the exhibits that you do have.

16 Do all panel members understand my instruction?

17 That's an affirmative response from all panel members.

18 Do all panel members agree to follow my instruction?

19 That's an affirmative response from all panel members.

20 Trial Counsel, please proceed.

21 **[Pause.]**

22 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin, do you have a
23 request to make at this time?

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1 CDC [MS. FUNK]: I do, Your Honor. At this time, on behalf of
2 Mr. bin Amin, we would like to publish to the jury Defense Exhibits A
3 through Y -- excuse me -- Defense Exhibit (AMI) A through Y and
4 Defense Exhibit (AMI) AA.

5 MJ [Lt Col BRAUN]: Okay. Trial Counsel, any objection?

6 TC [COL KRAEHE]: No objection, Your Honor.

7 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

8 LDC [MR. BOUFFARD]: No objection.

9 MJ [Lt Col BRAUN]: Okay. Without objection, please proceed,
10 Counsel.

11 **[Pause.]**

12 MJ [Lt Col BRAUN]: Panel Members, as I instructed you
13 yesterday, those exhibits are not to leave either this courtroom or
14 your deliberation room, which I'm considering an extension of the
15 courtroom.

16 Do all panel members understand?

17 That's an affirmative response from all panel members.

18 Based upon the volume of materials you have just been
19 provided, I appreciate it's going to take you a little bit of time to
20 work through them. So my intent is to recess this commission until
21 1130. That will give you just under two hours to work through those
22 matters.

23 What we will do is I will reconvene at 1130. That's the

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1 normally scheduled lunch recess. We'll ascertain where you are at at
2 that time. If you need more time, you will have more time.

3 I want to ensure that you have an opportunity to thoroughly
4 review those matters to your satisfaction. I -- you also will have
5 those matters available to you during your deliberations as well,
6 just for your planning purposes, as you're reviewing the materials,
7 should that aid you.

8 Any objection to that approach?

9 And, Panel President, so Panel Member Number 1, if you want
10 to poll your fellow members before responding to me.

11 I think it's a push to talk.

12 Okay. I hear no objection. Thank you, Panel Member
13 Number 1.

14 There's one other matter I do want to make you aware of at
15 this time. You will notice sometimes when I'm talking to you, my
16 cadence seems unusual. I had alluded yesterday that there are times
17 where I speak too fast and there's consideration to the speed at
18 which I'm speaking.

19 That's for two reasons. One, I explained to you there's a
20 court reporter creating a transcript of this proceeding.
21 Additionally, there are translators who are in real-time translating
22 things that are being said in the courtroom.

23 So I have an indicator and counsel have indicators in front

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1 of us that tell us to slow down, to hopefully make the job of both
2 the court reporter and those translators a little easier. So
3 insomuch as it seems like we are breaking our cadence in an unusual
4 way, we're really trying to accommodate that process to ensure that
5 this proceeding moves forward as fairly and as easily as it can.

6 So I don't want any panel member to read into that weird
7 cadence that an individual speaking in these proceedings may have.
8 It is not necessarily reflective of them. It's more reflective of
9 the process that we're using here in the military commissions.

10 Do all panel members understand what I've just explained to
11 you?

12 That's an affirmative response from all panel members.

13 Counsel, are there any matters we need to take up before I
14 recess this commission until 1130?

15 Trial Counsel?

16 TC [COL KRAEHE]: No, Your Honor.

17 MJ [Lt Col BRAUN]: Okay. Counsel for Mr. bin Amin?

18 CDC [MS. FUNK]: Nothing, Your Honor.

19 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

20 LDC [MR. BOUFFARD]: Nothing, Your Honor.

21 MJ [Lt Col BRAUN]: Very well, then. This commission is in a
22 recess until 1130.

23 **[The R.M.C. 803 session recessed at 0946, 24 January 2024.]**

1 **[The military commission was called to order at 1132,**
2 **24 January 2024.]**
3 **[Members entered the courtroom.]**

4 MJ [Lt Col BRAUN]: This commission will come to order. All
5 parties that were present when the commission last recessed are
6 present, and the members are present.

7 Panel Member Number 1, has the panel had enough opportunity
8 to review the materials that were published to them a couple hours
9 ago?

10 PRESIDENT: Judge, we have not.

11 MJ [Lt Col BRAUN]: Okay. As I had stated earlier, I will
12 give you the time you need to make sure that you have the opportunity
13 to fully review those matters to your satisfaction prior to moving
14 into the calling of any witness or presentation of any additional
15 evidence.

16 Based upon the time, I intended to place the court in recess
17 to allow the panel, as well as the parties, to grab some lunch,
18 reconvene at 1300, and then place the commission into a recess to
19 allow you additional time to review the materials that you'd like to
20 review. Does that approach work for the panel?

21 PRESIDENT: Yes, Judge.

22 MJ [Lt Col BRAUN]: Okay. Trial Counsel, any objection to
23 that way ahead?

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1 TC [COL KRAEHE]: No objection, Your Honor.

2 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin?

3 CDC [MS. FUNK]: No objection, Your Honor.

4 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

5 LDC [MR. BOUFFARD]: No objection, Your Honor.

6 MJ [Lt Col BRAUN]: Very well then. I will recess this
7 commission until 1300.

8 **[The military commission recessed at 1135, 24 January 2024.]**

9 **[The military commission was called to order at 1306,**
10 **24 January 2024.]**

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

12 MJ [Lt Col BRAUN]: This commission will come to order. All
13 parties that were present when the commission last recessed are again
14 present, to include the members.

15 Panel Member Number 1, I believe you, when we last recessed,
16 anticipated needing more time to review the materials you have. Is
17 that still the case?

18 PRESIDENT: Yes, Your Honor.

19 MJ [Lt Col BRAUN]: Okay. What I would like to you do is just
20 poll your fellow panel members and try to give me your best guess on
21 how much time you would like. Again, if you need more time at the
22 termination of that amount of time, I'll give you more time. I
23 really do mean you have as much time as you need to get through those

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1 materials. So I want to make that abundantly clear for you.

2 PRESIDENT: Yes, Your Honor.

3 We believe we need two more hours.

4 MJ [Lt Col BRAUN]: Two more hours. Very well.

5 So it is 1300. So I have that standard recess I had
6 indicated to you all earlier at 1515 that I take until 1545. So
7 1300, so that will put me at 1500. It would be my intention, then,
8 to recess until 1545.

9 I don't think we would be able to get onto the record and
10 accomplish very much in those 15 minutes and then have to recess,
11 especially if it involves witness testimony.

12 So 1545, does that work for you, Panel Member Number 1?

13 PRESIDENT: Yes, Your Honor.

14 MJ [Lt Col BRAUN]: Okay. Very well. This commission is in
15 recess until 1545.

16 **[The military commission recessed at 1307, 24 January 2024.]**

17 **[The R.M.C. 803 session was called to order at 1559,**

18 **24 January 2024.]**

19 MJ [Lt Col BRAUN]: This commission will come to order.

20 All parties that were present when the commission last
21 recessed are now present. Members are absent.

22 Parties, before I call the members, quickly, is there a
23 desire to explore proceeding after the 1730 recess? And if so, what

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1 is that plan?

2 TC [COL KRAEHE]: Yes, sir. This has been discussed with
3 defense counsel, who all concur in this plan, and it is our hope to
4 try to push on through to completing the prosecution's case by
5 calling all the witnesses this afternoon.

6 It's hard to predict how long the witnesses will take, but
7 if it looks like we're in a position to complete all the witnesses by
8 1900, we'd request to go until the 1730 prayer break and then, after
9 that prayer break, continue on to 1900.

10 MJ [Lt Col BRAUN]: Okay. Counsel, what time do the parties
11 propose resuming after that 1730 prayer break? So we'll break at
12 1730. Then when would we need to resume?

13 TC [COL KRAEHE]: I believe it's a brief prayer at that time.
14 So I'm not sure how long it is, but I think maybe 15 minutes. So
15 we'd resume at 1745.

16 **[Pause.]**

17 MJ [Lt Col BRAUN]: And I'll just start off with defense
18 counsel, if you can assist. I'm seeing a prayer time of 1748 for
19 today, but I don't know the duration.

20 So, Counsel for Mr. bin Amin, do you have a -- if we break
21 at that 1730, when would you propose we resume?

22 CDC [MS. FUNK]: So my client tells me their prayer time is
23 1745 to 1800. And so if we could just have a few minutes on either

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1 end so that they can -- we can clear the courtroom and they can have
2 that privacy. I would say 20 minutes would be sufficient.

3 MJ [Lt Col BRAUN]: So if I break at the 1730, that will give
4 about 15 minutes. Do you think -- would that be sufficient?

5 CDC [MS. FUNK]: If you break at 5:30, we can't come back
6 before about 6:05.

7 TC [COL KRAEHE]: Then, Your Honor, I'd propose, then, that we
8 break at 1740 and then resume at 1805.

9 LDC [MR. BOUFFARD]: We concur.

10 MJ [Lt Col BRAUN]: Ms. Funk -- Counsel for Mr. bin Amin, 1805
11 sound like a good time to resume, then?

12 CDC [MS. FUNK]: Yes, Your Honor. Thank you.

13 MJ [Lt Col BRAUN]: And then it looks like the final prayer
14 for the day is at 1900 or just before, based upon the -- at least
15 what I have. When would we be hard stop?

16 CDC [MS. FUNK]: It does start exactly at 7:00, so I would say
17 1855.

18 MJ [Lt Col BRAUN]: Okay.

19 Counsel for Mr. bin Lep?

20 LDC [MR. BOUFFARD]: No objection to that.

21 MJ [Lt Col BRAUN]: Trial Counsel?

22 TC [COL KRAEHE]: No objection, Your Honor.

23 MJ [Lt Col BRAUN]: Okay. Then I feel that that is

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1 appropriate. Given the concurrence of the parties, that will be the
2 approach we take, and I'll make sure the panel is tracking as such.

3 Anything else before we call the panel members?

4 Trial Counsel?

5 TC [COL KRAEHE]: No, Your Honor.

6 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin?

7 CDC [MS. FUNK]: Nothing, Your Honor. Thank you.

8 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

9 LDC [MR. BOUFFARD]: Nothing, Your Honor. Thank you.

10 MJ [Lt Col BRAUN]: Very well, then. Bailiff, please call the
11 members.

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

13 **[The military commission was called to order at 1604,**

14 **24 January 2024.]**

15 MJ [Lt Col BRAUN]: Please be seated.

16 This commission will again come to order. Parties are
17 present. Members are again present with us.

18 Panel Member Number 1, just confirming, have the panel
19 members had an adequate opportunity to review the materials published
20 to them earlier in our proceeding?

21 PRESIDENT: Yes, Your Honor.

22 MJ [Lt Col BRAUN]: Thank you.

23 Just for some awareness on the projected way ahead here, I'm

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1 going to keep us in session until around 1740 today. So I'm going to
2 go a little bit past that 1730 break. We're going to have a break at
3 that point and then resume. My proposal is to resume at 1805, and
4 then go until about 1850, 1855 today, and then we'll break for the
5 day.

6 Is that acceptable to the panel?

7 PRESIDENT: Yes, Your Honor.

8 MJ [Lt Col BRAUN]: Okay, great. Then that is how we will
9 proceed.

10 Trial Counsel?

11 TC [COL KRAEHE]: Your Honor, the United States would call its
12 first witness, Matthew Arnold.

13 Good afternoon, sir. Would you please stand and face me,
14 and raise your right hand.

15 **MATHEW ARNOLD, was called as a witness for the prosecution, was**
16 **sworn, and testified as follows:**

17 **DIRECT EXAMINATION**

18 **Questions by the Trial Counsel [COL KRAEHE]:**

19 Q. Sir, would you please state your name for the record.

20 A. Matthew William Arnold.

21 Q. I realize that some of the questions I may ask you this
22 afternoon will be hard for you to answer, and may require you to
23 relive some of the darkest moments of your life. If at any time you

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1 feel uncomfortable or become emotional or need to take a break, can
2 you please let me know so that I can accommodate you?

3 A. Yes.

4 Q. Where are you from, sir?

5 A. I'm from Birmingham in the United Kingdom.

6 Q. Were you compelled to testify here or did you come here
7 voluntarily?

8 A. I came here voluntarily.

9 Q. And why did you come here?

10 A. To represent my brother's memory.

11 Q. Did you lose a loved one in the October 12th, 2002 Bali
12 bombings?

13 A. Yes, I did.

14 Q. Would you be so kind as to share with us and the panel the
15 name of the loved one that you lost?

16 A. Timothy John Arnold.

17 Q. And what was Tim's relation to you?

18 A. He was my brother.

19 Q. What age was your brother when he was killed?

20 A. He was 43.

21 Q. Did you send the government photographs of your brother
22 that you would like to share with the panel?

23 A. Yes.

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1 TC [COL KRAEHE]: Your Honor, with your permission, I would
2 like to display what's been marked as Government Exhibit 8 with the
3 panel.

4 MJ [Lt Col BRAUN]: Defense Counsel, any objection?

5 CDC [MS. FUNK]: No objection, Your Honor.

6 LDC [MR. BOUFFARD]: Your Honor, we have no objection.

7 I am hearing we are having headphone problems over here,
8 though.

9 MJ [Lt Col BRAUN]: Stand by one moment, Trial Counsel.

10 LDC [MR. BOUFFARD]: That appears to have been resolved.

11 MJ [Lt Col BRAUN]: Okay.

12 I'm sorry. Trial Counsel, which exhibit?

13 TC [COL KRAEHE]: This is Prosecution Exhibit 8, Your Honor.

14 MJ [Lt Col BRAUN]: If I could have that viewable here at the
15 bench first. You may place it on the document reader. I'm going to
16 take a look at it on the bench first.

17 Counsel, who would you like that published to?

18 TC [COL KRAEHE]: To the witness and to the panel, Your Honor.

19 MJ [Lt Col BRAUN]: Okay. Very well. That exhibit will be
20 published to the witness and the panel.

21 Q. And, sir, do you recognize this photo?

22 A. Yes, I do.

23 Q. And when was this photograph taken?

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1 A. It was taken, I believe, on the first anniversary of the
2 Bali bombings.

3 Q. I'm showing you what is the second page of Government
4 Exhibit 8. Do you recognize this photo, sir?

5 A. Yes, I do.

6 Q. Okay. When was that photograph taken?

7 A. I'm not sure, but it was before October 2002.

8 Q. Where did your brother work?

9 A. Singapore.

10 Q. Okay. I'm going to show you what is the third page of
11 Government Exhibit 8. Do you recognize that, sir?

12 A. Yes, I do.

13 Q. Do you know where that photograph was taken?

14 A. No. I would guess Cambodia, but I'm not sure.

15 Q. Were you asked at some point to prepare a written victim
16 impact statement in connection with these proceedings?

17 A. Yes, I was.

18 Q. Was it difficult to write that statement?

19 A. Yes.

20 Q. Did it cause you to relive the worse moments of your life?

21 A. Yes.

22 TC [COL KRAEHE]: Your Honor, at this time I would like to
23 show the witness, and the witness only, the victim impact statement

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1 that has been entered into evidence as Prosecution Exhibit 16.

2 MJ [Lt Col BRAUN]: Please proceed. And before you do so, if
3 I can make sure that this is only published to the witness.

4 TC [COL KRAEHE]: Yes, sir.

5 MJ [Lt Col BRAUN]: Proceed, Trial Counsel.

6 Q. Sir, is that the victim witness impact statement?

7 A. Yes, it is.

8 Q. Okay. And do you have a copy of that with you?

9 A. I do.

10 Q. Is it important to you that you read that to the panel?

11 A. Yes.

12 Q. And why is that important to you?

13 A. I would like the panel to be aware of the effects of my
14 brother's death on my family and his friends.

15 Q. Would you be so kind as to read your victim impact
16 statement to the panel.

17 A. Yes.

18 I am the brother of Timothy John Arnold, known to his family
19 as Tim, one of the victims of the bombings in Bali, Indonesia on the
20 12th of October, 2002.

21 I represent my brother and my entire family, Michael David
22 Arnold, known to his family and close friends as Tim, who is now
23 deceased; Vivienne Mary Langley Arnold, my mother; my sisters, Helen

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1 Jane Arnold and her husband, John, and their three children; Sarah
2 Elizabeth Doughty and her husband, Adam, and their two daughters;
3 Emma Louise Patel and her husband, Kiran, and their four daughters;
4 Victoria Mary Burch and her husband, Nigel, and their two sons; and
5 my brother Edward James Arnold and his wife, Karine, and their three
6 sons; and my 99-year-old aunt, Sheila Margot Langley Dawson.

7 I also represent my four sons, William David Arnold, known
8 as Will; Thomas Matthew Arnold, known as Tom; Charles Timothy Arnold,
9 known as Charlie; and Henry Augustus Arnold, known as Henners, and my
10 former wife, Debra.

11 In all, there are 33 close and immediate family members who
12 have been affected by this atrocity. Dozens more friends and wider
13 family are also deeply affected by this loss.

14 My brother Tim was a solicitor. My father was a solicitor
15 and Helen Jane, my sister, is a solicitor. My family, therefore, has
16 an unbreakable association with and a respect for the law. It is in
17 this spirit that I seek justice for my brother.

18 I was notified of the bombings by my deceased brother's
19 fiancée, Budsakorn Jedkhuntod, known as Korn, who lived with my
20 brother in Singapore. He had gone to Bali with the Singapore Cricket
21 Club rugby team to play in the Bali Sevens, a rugby tournament played
22 throughout Asia from year to year. Many of those young British
23 people who perished in the Bali bombings were in Bali playing rugby

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1 or were otherwise on holiday.

2 Korn telephoned me to say that my brother was not answering
3 his mobile phone and that she was aware he was in Bali playing rugby.
4 I had met Korn some weeks earlier when I visited my brother and Korn
5 in Singapore with my wife and four sons, and so we had developed an
6 affection for her as my brother's fiancée.

7 My brother Tim was missing and Korn was distraught. Korn is
8 a Thai national. According to the laws in Singapore, because my
9 brother was missing and her residency in Singapore relied upon his
10 sponsorship, she had to leave their home in Singapore and return to
11 Bangkok.

12 She found this deeply traumatic, particularly because many
13 of their own possessions had to remain in their home in Singapore,
14 and she had to leave many of her friends there. It was even more
15 traumatic because it turned out that she was pregnant; and in her
16 culture, she would not have been able to continue with the pregnancy
17 as a single woman.

18 I offered to adopt her child; but in the event, and given
19 the circumstances of the atrocity, she was not able to continue with
20 the pregnancy. Their child was, therefore, lost.

21 My immediate reaction was to go to my parents' house to let
22 them know what had happened. I was due to be going to my parents'
23 house for Sunday lunch, in any event, with my wife and four children,

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1 but I went early on my own to speak to my parents.

2 My mother was not there, as she was shopping for lunch, but
3 my father was working in his study. I will never forget the look of
4 anguish, pain, and desolation on his face. It was as if the life
5 drained out of him in that moment, and it never fully returned.

6 My father died in 2010, and it is without question that the
7 murder of his eldest son had devastated him and cast a long shadow
8 over his remaining years. He was heartbroken, and he never recovered
9 from this loss.

10 I immediately arranged with my brother's employers, Standard
11 Chartered Bank, with whom I had made contact, having met various
12 colleagues in my earlier visit to Singapore to see Tim and Korn, to
13 travel to Singapore and then on to Bali to search for Tim.

14 We knew that many of those injured in Bali had been
15 transported by the Australian Air Force to Australia to receive
16 urgent medical treatment, and we hoped that my brother was one of
17 them.

18 My mother and father and I subsequently traveled to
19 Singapore on the Tuesday following the bombings and arrived there
20 late on Tuesday evening. We were greeted by many of my brother's
21 colleagues on our arrival, all of whom were distraught, not only at
22 the fact that my brother was missing, but that many other Standard
23 Chartered Bank colleagues were also killed, wounded, or missing from

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1 the bombings.

2 The reach of this atrocity knew no bounds and has affected
3 very many people.

4 My parents and I were then flown by Standard Chartered Bank
5 to Bali, where I then was taken around the various mortuaries in the
6 hope of finding my brother. Although I was aware of unique
7 identifying features would have enabled -- that would have enabled me
8 to identify Tim's body, I was not able to do so.

9 Bali was, unsurprisingly, not equipped to deal with such an
10 atrocity. And within a day or so after our arrival, the Balinese
11 authorities decreed that no visual identification would now be
12 possible because of the lack of storage facilities and the
13 accelerated rate of decomposition of bodies given the extreme heat.

14 We, therefore, had to wait for some form of confirmation
15 from the authorities as to the likely whereabouts of my brother or
16 otherwise that he had been killed.

17 Three of my siblings joined me and my parents in Bali after
18 a few days. And as time went on, we all acknowledged that it was
19 most likely that my brother had been killed. The pain of not knowing
20 what had happened to Tim tormented my parents, and this torment
21 continues to this day.

22 We remained in Bali for around one week in the hope of
23 receiving some news, and eventually decided that we should return to

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1 Singapore to await any further developments. With heavy hearts, we
2 did so.

3 After four or five more days in Singapore, the family
4 decided to return to the U.K., having given up hope of finding my
5 brother alive. A few days after we returned home, the family liaison
6 officer from West Midlands Police called me to say that they had
7 information and could they come and see us.

8 I met the police and my parents at their house; and the news
9 was as expected, but utterly devastating to my parents, that my
10 brother had indeed been killed by the bombings and had been
11 identified through dental records.

12 The effects of this atrocity have left all manner of
13 emotional, physical, financial, and psychological injuries on my
14 family, in particular upon my parents. The loss of such an important
15 member of a close and loving family is incalculable, and each one of
16 us has had to cope with this trauma in different ways.

17 My parents, decent, kind, loving, and selfless people, have
18 been left devastated by this atrocity. My father, Michael, died a
19 broken man; although, notwithstanding his loss, he always maintained
20 supreme grace and dignity and respect in his remaining days.

21 I'm aware that certain members of my family have received
22 extended counseling as a result of the bombings, and this will
23 continue.

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1 It is not possible to quantify the emotional effects of such
2 an event, save that each one of our lives has been changed forever.
3 And it is a case of learning to live with a changed environment and
4 coming to terms with a life emptier than it was before the atrocity.
5 It is an ever-present memory and one which has deeply affected my
6 entire family.

7 I have been involved with other affected families in various
8 projects specifically related to the bombings, which serve to
9 preserve the memory of our lost ones. And while I consider it has
10 been a worthwhile and worthy exercise, it has been a time-consuming,
11 expensive, and burdensome process.

12 This has affected my working life by virtue of the amount of
13 time dedicated to seeing the projects through and has tested my
14 relationship with my now-former wife. I cannot say that my marriage
15 failed because of my determination to avenge my brother's murder by
16 ensuring that he and others will not be forgotten, but it certainly
17 contributed to this.

18 The effect of all of this is that it has affected my quality
19 of life on a day-to-day basis to the extent that I'm now involved
20 with others in seeking to ensure that justice is done and those who
21 have perpetrated these crimes are brought to justice. This is why I
22 have committed and dedicated so much of my time over the last 21
23 years to seeing this through.

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1 The impact, therefore, on my family is clear. I have
2 forsaken a hitherto happy marriage of 35 years. My children have
3 lost a loving godfather and uncle, and my parents and siblings have
4 been left devastated by an event over which none of us had any
5 control.

6 I propose to appear as a witness at the trial of Mohammed
7 Farik bin Amin and Mohammed Nazir bin Lep, which I now understand has
8 been combined into one military commission case entitled United
9 States v. Bin Amin, et al., as I wish to make clear the effects of
10 their actions on me and my family, and to provide this
11 impact -- victim impact statement.

12 I will continue to press for justice for my brother, and the
13 natural consequence of this is that I must continue to devote time
14 and energy towards this endeavor when I would otherwise have been
15 enjoying life without the burden of such a weighty anxiety.

16 My family's lives have been changed completely by the
17 actions of the perpetrators of this crime. And I would like the
18 court and Mr. bin Amin, and Mr. bin Lep to be aware of the
19 devastating effects of their actions on so many innocent and decent
20 people.

21 Q. Thank you, sir. Is there anything more you would like the
22 panel to know about your brother?

23 A. It's easy to eulogize about people and things. Timothy

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1 enriched so many lives, and was himself robbed of life. He is missed
2 terribly by his family and friends, and his loss has affected so
3 many.

4 His life may have been stolen, but his memory has not. He
5 was an active, vital, fulfilled personality, and made a secret of the
6 magic with which he drew people towards him. He was enthusiastic in
7 his work, and in his love for his family. He was an enthusiast in
8 life.

9 I hope that Mr. bin Lep and Mr. bin Amin faithfully and
10 sincerely reflect on their deeds. We should not forget that their
11 actions led directly to the murder of hundreds of innocent people,
12 good people. They must live with this profound shame and conscience,
13 and it will always go with them. In the meantime, my family and so
14 many others, must live with their loss.

15 Q. Thank you, sir.

16 TC [COL KRAEHE]: No further questions, Your Honor.

17 MJ [Lt Col BRAUN]: Thank you, Trial Counsel.

18 TC [COL KRAEHE]: I have no further questions, Your Honor.

19 MJ [Lt Col BRAUN]: Thank you, Trial Counsel.

20 Defense Counsel for Mr. bin Amin, do you have
21 cross-examination?

22 CDC [MS. FUNK]: No. Thank you, Mr. Arnold. We don't have
23 any questions for you.

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1 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep, do you have
2 cross-examination?

3 LDC [MR. BOUFFARD]: Mr. Arnold, thank you for being here. We
4 have no questions.

5 WIT: Thank you.

6 MJ [Lt Col BRAUN]: Trial Counsel, is this witness
7 subject -- or excuse me.

8 Does any panel of the commission have a -- any panel member
9 have a question for this witness?

10 PRESIDENT: No, Your Honor.

11 MJ [Lt Col BRAUN]: I have a negative response from all panel
12 members.

13 Trial Counsel, is this witness subject to recall?

14 TC [COL KRAEHE]: No, Your Honor.

15 MJ [Lt Col BRAUN]: Mr. Arnold, that concludes your testimony
16 with us today. I am permanently excusing you. I thank you for your
17 participation. You may return to your seat in the gallery.

18 I do ask that while this trial continues, you not discuss
19 your knowledge or testimony in this case with anyone other than
20 accused and counsel. Do you understand?

21 WIT: I do.

22 MJ [Lt Col BRAUN]: Thank you for your time. You may step
23 down.

1 WIT: Thank you, sir.

2 **[The witness was warned, was permanently excused, and withdrew from**
3 **the courtroom.]**

4 TC [COL KRAEHE]: Your Honor, at this time the United States
5 calls Frank Heffernan.

6 Sir, would you please stand and face me, and raise your right
7 hand.

8 **FRANK HEFFERNAN, was called as a witness for the prosecution, was**
9 **sworn, and testified as follows:**

10 **DIRECT EXAMINATION**

11 **Questions by the Trial Counsel [COL KRAEHE]:**

12 Q. You may be seated.

13 A. Thank you.

14 Q. Sir, would you please state your full name for the record.

15 A. Frank Michael Heffernan.

16 Q. This afternoon I may be asking you some questions that are
17 very difficult to answer. If at any time you need a break or need to
18 take a pause, please let me know ----

19 A. All right.

20 Q. ---- and we'll accommodate you.

21 Can you tell the panel where you're from, sir?

22 A. Today we live in Melbourne, Florida.

23 Q. And were you compelled to testify here or are you here

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1 voluntarily?

2 A. Voluntarily.

3 Q. Why did you come here today?

4 A. To read a statement about the death of my daughter, Megan.

5 Q. Okay. Did you lose Megan in the October 12th, 2002 Bali
6 bombing?

7 A. Say again, sir.

8 Q. Did you lose Megan in the October 12th ----

9 A. Yes. The answer is yes.

10 Q. Okay. And she was your daughter; is that correct?

11 A. Say again?

12 Q. What relation was Megan to you?

13 A. Oh. Megan was my daughter.

14 Q. And how old was she when she was killed?

15 A. She was 28.

16 Q. Did you send the government a photograph of Megan that you
17 would like to share with the panel?

18 A. We did.

19 TC [COL KRAEHE]: Your Honor, with your permission, we would
20 like to display to the panel and to Mr. Heffernan the exhibit that's
21 been marked as Prosecution Exhibit 12.

22 MJ [Lt Col BRAUN]: So, Counsel, if you could please place it
23 on the document reader, and if it could be published to the judge

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1 only.

2 Defense Counsel, any objection to publishing Prosecution
3 Exhibit 12 to the witness and to the panel?

4 CDC [MS. FUNK]: No, Your Honor.

5 LDC [MR. BOUFFARD]: No, Your Honor.

6 MJ [Lt Col BRAUN]: Very well. Your request is granted.

7 Could the exhibit, Prosecution Exhibit 12, be published to
8 the witness and to the panel.

9 Q. Were you asked to provide a written victim impact
10 statement in connection with these proceedings?

11 A. Yes.

12 Q. Do you have a copy of that with you today?

13 A. I do, sir.

14 Q. Okay.

15 TC [COL KRAEHE]: Your Honor, I would like to display to the
16 witness only what's been marked as Prosecution Exhibit 17.

17 MJ [Lt Col BRAUN]: Okay. I'm going to ask that that be
18 displayed only to the bench initially.

19 TC [COL KRAEHE]: If we could display that to the witness
20 also, Your Honor.

21 MJ [Lt Col BRAUN]: One moment, Counsel.

22 **[Pause.]**

23 MJ [Lt Col BRAUN]: Okay. That's appropriate.

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1 Can we please publish the exhibit to the witness.

2 Q. Sir, do you see what's been -- do you see the document on
3 the screen?

4 A. I do, sir.

5 Q. And is that your victim impact statement?

6 A. Yes.

7 Q. Okay. Was it difficult for you to write that impact
8 statement?

9 A. No.

10 Q. Is it important for you to read it to the panel?

11 A. Yes, sir.

12 Q. And why is that, sir?

13 A. Well, I'd like to have her remembered.

14 Q. Would you be so kind as to read your victim impact
15 statement to the panel?

16 A. I shall.

17 Megan Heffernan was about as close to a free spirit as any
18 creature of God could be. She loved her family, friends, and the
19 world around her. She was always inquisitive and traveled to
20 wherever and whenever possible.

21 That's why she and her friends went to Bali, to see and
22 enjoy the lovely people who live there, to experience the beauty of
23 Bali and dive in its waters.

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1 Megan was truly a personification of joy and wealth.
2 Whatever the depraved and twisted reasoning behind the bombing,
3 whether it was because of government, religion, or national
4 differences, the bombing caused 202 innocent people their lives and
5 hundreds more injured.

6 The lingering memory of the damnable deed will always haunt
7 the lives of those who had loved ones taken from them. That is the
8 legacy of the bombing and those who were involved in it.

9 Megan's loss will be with us forever. I, her father, think
10 of her every day and pray for her. Her mother died of COVID two
11 years ago but kept many of Megan's things perfectly preserved and
12 displayed her pictures. The pain of her loss was evident.

13 Her brother and sisters now delight in the memories of
14 Megan, their lives in Alaska and travels together, but they dearly
15 wish they could gather together as adults in a family again. That is
16 why we find so painful, after all these years, our family is not
17 complete without Megan.

18 We carry Megan in our hearts and our memories, deep in our
19 soul. But those involved in the bombing robbed us of many years we
20 could have seen her smile, pulled her close for a hug, heard her
21 voice on the other end of a call. We were robbed of watching her
22 life unfold, whatever the choice to be, and it would have been rich
23 and varied in experiences. It would have been wonderful. The world

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1 is less bright without Megan Heffernan, and she's waiting for us.

2 Q. Thank you.

3 A. That's it.

4 Q. Thank you, sir.

5 Is there anything more you would like the panel to know
6 about Megan?

7 A. Yeah. I don't consider myself special. Hundreds like me
8 lost. My loss is just remembering her gruesome death. Her mom kept
9 her room like a little sanctuary. Her brother, Mike, and sister,
10 Maureen, have tattoos of her face on their shoulders.

11 Heck, I could go on. There are many others like this. My
12 wife, Bonnie, has a statement about further damage to the family. I
13 find it an honor that you've allowed me to speak to you.

14 Thank you.

15 Q. Thank you, sir, for being here.

16 TC [COL KRAEHE]: Those are all the questions I have, Your
17 Honor.

18 MJ [Lt Col BRAUN]: Thank you, Trial Counsel.

19 Defense Counsel, cross-examination?

20 CDC [MS. FUNK]: Thank you, Mr. Heffernan. And thank you for
21 your service. We don't have any questions for you.

22 WIT: Okay.

23 MJ [Lt Col BRAUN]: Mr. Heffernan, thank you for being here,

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1 sir. We have no questions.

2 WIT: Stand down?

3 MJ [Lt Col BRAUN]: One moment, sir. One moment. One moment,
4 please.

5 Do any panel members have any questions for this witness?

6 That's a negative response from all panel members.

7 Counsel, subject to recall?

8 TC [COL KRAEHE]: No, Your Honor.

9 MJ [Lt Col BRAUN]: Mr. Heffernan, I'm going to permanently
10 excuse you. That concludes your testimony with us here today. I
11 thank you for your time. You may return to your seat. I just ask
12 that while this trial continues you not discuss your knowledge or
13 testimony in this case with anyone other than accused and counsel.

14 Do you understand?

15 WIT: I do, sir.

16 MJ [Lt Col BRAUN]: Thank you.

17 WIT: Thank you.

18 TC [COL KRAEHE]: Thank you, Mr. Heffernan.

19 **[The witness was warned, was permanently excused, and withdrew from**
20 **the courtroom.]**

21 TC [COL KRAEHE]: Sir, at this time -- Your Honor, at this
22 time the United States would call Bonnie Hall.

23 MJ [Lt Col BRAUN]: Counsel, if you could remove the exhibit

1 from the document reader. Thank you.

2 TC [COL KRAEHE]: Ma'am, would you please face me and raise
3 your right hand.

4 **BONNIE HALL, was called as a witness for the prosecution, was sworn,**
5 **and testified as follows:**

6 **DIRECT EXAMINATION**

7 **Questions by the Trial Counsel [COL KRAEHE]:**

8 Q. And would you please state your name for the record.

9 A. Bonnie Kathleen Hall.

10 Q. And I know this afternoon I may be asking you some
11 questions that are difficult to answer. So if at any time you need a
12 break, please let me know, and I'll do my best to accommodate you.

13 A. Okay.

14 Q. Can you tell the panel where you're from, where you
15 reside?

16 A. Right now, in Melbourne, Florida.

17 Q. Okay. And were you compelled to testify here or are you
18 here voluntarily?

19 A. Voluntarily.

20 Q. Can you tell the panel why you came here today?

21 A. It's time for Megan to be recognized and for Megan's
22 demise to be recognized and, if possible, to have justice be done.

23 Q. Okay. And are you referring to Megan Heffernan?

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1 A. Megan Heffernan, yes.

2 Q. Okay. And what relation was Megan to you?

3 A. I'm her stepmother. I'm married to her father.

4 Q. Okay. And that's ----

5 A. Frank Heffernan.

6 Q. Who just testified.

7 A. Um-hmm.

8 Q. Okay.

9 TC [COL KRAEHE]: Your Honor, at this time, I would like
10 to ----

11 Q. Well, let me ask this: Were you asked to make a written
12 victim impact statement?

13 A. We were told that we could make one if we chose, and we
14 chose to do so.

15 Q. Okay.

16 TC [COL KRAEHE]: Your Honor, at this time I'd like to display
17 to the witness what has been entered into evidence as Prosecution
18 Exhibit 28.

19 MJ [Lt Col BRAUN]: Okay. You may publish that to the bench
20 first.

21 Okay. You may publish that to the witness.

22 Q. And, ma'am, do you see the document on the screen?

23 A. Yes, I do.

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1 Q. And do you recognize that as your victim impact statement?

2 A. Yes.

3 Q. Do you have a copy of that with you?

4 A. Yes, I do.

5 Q. Okay. And would you be so kind as to read your victim
6 impact statement, please.

7 A. Yes, I will.

8 Megan's mother was Sandra. She and Frank were married for
9 25 years, and they raised three children, Mike, Megan, and Maureen.
10 Sandra passed away almost three years ago from COVID.

11 Frank and I have been married almost 20 years. Our families
12 hold all of us and each other very close. All our kids were born and
13 raised in Alaska. We all loved it for over 30 years.

14 By 2002, Megan had traveled extensively and accepted a
15 position teaching in Busan, South Korea.

16 The morning of October 12th, 2002, Frank and I were at home
17 in Florida making coffee in the kitchen when the TV broke with the
18 news of a bombing in Bali, Indonesia. There was footage of massive
19 fires, people screaming and running, some of them on fire, people
20 being carried out and then some on stretchers.

21 We later heard it was suspected to have been a planned
22 terrorist bombing. Again, another one somewhere in the world.
23 Again, why? Why Bali? What reason? What goal?

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1 That was Saturday. On Tuesday, October 15th, Frank had a
2 message to return a call to the State Department. That call dropped
3 our hearts into an abyss where they remain to this day. That's when
4 we learned that Megan had gone to Bali with friends from her church
5 in Korea.

6 They had gone scuba diving during the day and then all had
7 dinner together that night. Two of them went back to the hotel, and
8 the other three went shopping to the tourist area. They never
9 returned.

10 Our Megan was missing.

11 Those were the facts we had. Frank had to break the news to
12 his son, Mike, and his daughter Maureen. Maureen had to call her
13 mother, and Sandy had gone to Seattle from Anchorage for a church
14 conference. Maureen had to call her mother and break the horrible
15 news.

16 And I think of Sandy alone sitting in a hotel room, far away
17 from home, with no family around when she found out her daughter was
18 missing. How hopeless she had to feel. Where is my child? I need
19 my child now. I'm her mom and she needs me. She needs me now, and I
20 need to be there. Anyone with children knows that feeling.

21 That was the impact. That was the impact on our family of
22 finding out that Megan couldn't be found. She was just gone.

23 Then Sandy had to fly back to Anchorage alone to hold her

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1 daughter, Maureen, close, and pray that Megan was found.

2 Within a few days, the State Department requested Megan's
3 dental records. And Frank sent them, because being the dad he is,
4 during Megan's most recent visit home, he insisted she get a good
5 checkup.

6 We then received confirmation that our Megan had been killed
7 in the bombing. She was identified through dental records. Her
8 other two missing traveling companions were sisters from Korea, and
9 they were also killed.

10 Megan's body was returned to Anchorage, and she was buried
11 there on November 12th, 2002. Megan was killed October 12th, she was
12 buried November 12th. And on December 12th, Megan would have turned
13 29 years old. And her friends would do what they always did on her
14 birthday, they would take her out for cheesecake.

15 But Megan's mom is now buried next to her in Anchorage, and
16 Megan is no longer missing.

17 Q. Thank you, ma'am. Is there anything more you would like
18 the panel to know about Megan?

19 A. The family has collective broken hearts. Mike, Maureen,
20 Sandy died with a broken heart, and my husband has lost a daughter
21 forever. And there's no better dad in the world than Frank
22 Heffernan, and Megan adored him, and vice versa.

23 It's an incalculable, stupid, terrible waste. One of many,

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1 I'm afraid. One of 202.

2 Q. Thank you, ma'am. Thank you for being here today.

3 A. Glad to be here.

4 TC [COL KRAEHE]: No further questions, Your Honor.

5 MJ [Lt Col BRAUN]: Defense Counsel?

6 Ma'am, one moment, please. Ma'am, I'm sorry. One moment
7 please.

8 WIT: I'm sorry. I didn't hear that.

9 MJ [Lt Col BRAUN]: That's all right. I'm going to make sure
10 nobody else has any additional questions, and then I'll ----

11 WIT: Okay.

12 MJ [Lt Col BRAUN]: ---- excuse you if there are no questions.

13 Defense Counsel, any cross-examination?

14 CDC [MS. FUNK]: No. Ms. Hall, thank you. No questions.

15 WIT: Okay.

16 LDC [MR. BOUFFARD]: Ms. Hall, thank you for being here. We
17 have no questions.

18 WIT: Okay.

19 MJ [Lt Col BRAUN]: Does any member of the panel have a
20 question for this witness?

21 That is a negative response from all panel members.

22 Trial Counsel, is this witness subject to recall?

23 TC [COL KRAEHE]: No, Your Honor.

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1 MJ [Lt Col BRAUN]: Okay.

2 Ma'am, I'm going to permanently excuse you. We require no
3 additional testimony from you today. I thank you for taking your
4 time to be here today.

5 WIT: Thank you.

6 MJ [Lt Col BRAUN]: You may return to your seat. I simply ask
7 that while this trial continues, you not discuss your knowledge or
8 testimony in this case with anyone other than the accused or the
9 counsel. Do you understand?

10 WIT: I understand.

11 MJ [Lt Col BRAUN]: Thank you. You may step down.

12 TC [COL KRAEHE]: Thank you, Ms. Hall.

13 **[The witness was warned, was permanently excused, and withdrew from**
14 **the courtroom.]**

15 TC [COL KRAEHE]: Your Honor, at this time the United States
16 calls Susanna Miller.

17 Ms. Miller, would you please stand and face me and raise
18 your right hand.

19 **SUSANNA MILLER, was called as a witness for the prosecution, was**
20 **sworn, and testified as follows:**

21 **DIRECT EXAMINATION**

22 **Questions by the Trial Counsel [COL KRAEHE]:**

23 Q. Please be seated.

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1 Would you please state your full name for the record.

2 A. Eleanor Susanna Kate Miller.

3 Q. This afternoon I will be asking you some questions that
4 you may find very difficult to answer. If at any time you need a
5 break, please let me know, and I'll do my best to accommodate you.

6 Can you let the panel know where you are from?

7 A. London, in the United Kingdom.

8 Q. Were you compelled to testify here today or are you here
9 voluntarily?

10 A. I'm here voluntarily.

11 Q. And why did you come here?

12 A. To testify to the devastating loss of my brother, but also
13 the devastating impact of the appalling events of the Bali bombing,
14 and the tragedy it represents to so many families.

15 Q. Okay. And you lost your brother in the Bali bombings on
16 October 12th, 2002?

17 A. Yes. I lost my brother, Nathaniel Miller. Nathaniel Dan
18 Miller.

19 Q. Does he go by the name Dan?

20 A. Yes.

21 Q. What age was your brother when he was killed?

22 A. He was 31.

23 Q. After you learned that your brother was killed, did you

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1 have an opportunity to go to Bali to view the scene of where he had
2 been killed?

3 A. I went to Bali in the first week of November to repatriate
4 my brother's body. So yes, I did.

5 Q. Did you have an opportunity, then, to view the area where
6 the bombing had occurred?

7 A. I did.

8 TC [COL KRAEHE]: Your Honor, at this time I would like to
9 display for the witness only what's been entered into evidence as
10 Prosecution Exhibit 5.

11 MJ [Lt Col BRAUN]: If we could publish that first to the
12 bench.

13 TC [COL KRAEHE]: And it consists, I believe, of eight pages.

14 MJ [Lt Col BRAUN]: Eight or nine pages, Counsel?

15 TC [COL KRAEHE]: I'm sorry, nine pages, Your Honor.

16 MJ [Lt Col BRAUN]: Okay. This exhibit may be published to
17 the witness only.

18 Q. And, Ms. Miller, if you could look at what has been marked
19 as Prosecution Exhibit 5. Have you seen these photos before? And
20 I'll pass through them one by one.

21 A. I haven't seen that one in particular. I've seen this
22 one.

23 Q. Do you recognize these photos and what they depict?

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1 A. I do. And the individual being helped out of the burning
2 wreckage died in the -- in the next room to Polly, my sister-in-law.

3 Q. Okay. And I'll come back to that photo in just a moment.
4 But, generally, do you recognize what these photos depict?

5 A. I do.

6 Q. Could you describe for the panel what they depict?

7 A. If you would stop moving them for a moment, that would
8 be -- I'd appreciate it.

9 What they depict is the epicenter of the most enormous
10 blast. But what they don't depict is the appalling smell of the
11 area, the smell of the scorching, smell of the body parts that were
12 still on the -- still on the site, the misery of everybody around it,
13 and the -- the sheer extent of the physical devastation, which is
14 much more than the epicenter that you are showing.

15 As you approached the site you would see, in a perfectly
16 ordinary part of Kuta, a burned-out car that had been flung hundreds
17 of meters by the force of the blast. And the devastation on the
18 faces of the Balinese as you walked towards the site and also the
19 devastation of everybody involved in being around that site, and
20 the -- it will stay with me forever.

21 TC [COL KRAEHE]: Your Honor, at this time I'd ask that the
22 photographs that have been entered into evidence as Prosecution
23 Exhibit 5 be displayed to the panel.

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1 MJ [Lt Col BRAUN]: Any objection, Defense Counsel?

2 CDC [MS. FUNK]: None at all, Your Honor. Thank you.

3 LDC [MR. BOUFFARD]: No, sir.

4 MJ [Lt Col BRAUN]: Okay. Very well, then. The photographs
5 contained within Prosecution Exhibit 5 can be published to the panel.

6 Q. Ms. Miller, just a few moments ago you talked about this
7 photograph.

8 MJ [Lt Col BRAUN]: And, Counsel, if you can identify that
9 photograph.

10 Q. This is page 2 of 9 of Prosecution Exhibit 5.

11 And what do we see there, ma'am?

12 A. I believe that that is Hannah Beth, the girlfriend of Marc
13 Gajardo, who was one of the U.K. citizens killed, helping an
14 individual. I can't immediately remember his name, but I think he
15 was a 17-year-old Australian. He was taken to Brisbane, and he was
16 one of those that died, of the many that died in Brisbane in the
17 months after the bombing of appalling injuries.

18 Q. And do you know how he died or what the cause of that was
19 exactly?

20 A. I'm told it was because he inhaled super-heated gas in his
21 lungs. He wasn't badly burned externally, but his internal injuries
22 were simply devastating.

23 Q. Now, I'd like to move on to another photograph and have

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1 you speak to this one. You spoke a little bit before.

2 And this is page 4 of what's been entered into evidence as
3 Prosecution Exhibit 5.

4 Can you describe what we're seeing there and point out to
5 the panel where the -- where Paddy's Pub was and where Sari Nightclub
6 was?

7 A. So the Sari Club is just south of the pitched roof to
8 the -- to the top section, and Paddy's Bar is across the road. And
9 you can see the scorched area in the -- in what was the road where
10 there is that gray shed or tent, probably. And you can see
11 the -- roughly where the bomb site is, I believe. I may have it
12 upside down. It's slightly difficult to see from there.

13 Q. And previously you described what you had observed when
14 you visited the site. Is there anything more you'd like to add about
15 your experiences in visiting Bali so soon after the bombing?

16 A. I think the atmosphere in Bali was terrible. So many of
17 the Balinese were agonized and in terribly -- terribly shocked, but
18 it was also -- it was the most extraordinary exhibition of human
19 cruelty and cowardice I have ever seen.

20 Q. Did you also send the prosecution photographs of your
21 brother?

22 A. I did.

23 TC [COL KRAEHE]: Your Honor, at this time we would like to

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1 display to the witness and to the panel those photographs which have
2 been entered into evidence as Prosecution Exhibit 11.

3 MJ [Lt Col BRAUN]: Let's publish those to the bench first,
4 Counsel.

5 **[Pause.]**

6 MJ [Lt Col BRAUN]: Counsel, do you intend to publish all 11
7 photos?

8 TC [COL KRAEHE]: Yes, Your Honor.

9 MJ [Lt Col BRAUN]: Okay.

10 Defense Counsel, any objection?

11 CDC [MS. FUNK]: Your Honor, the only thing I'm wondering is
12 why it is not being displayed in the courtroom as well.

13 MJ [Lt Col BRAUN]: If counsel would like to publish the
14 exhibits to more than just the witness and the panel, they can
15 request to do so, and the court will absolutely entertain that.

16 Based upon the request of counsel, the exhibits have only
17 been published to either the witness or the panel or the bench, if
18 the bench has requested it. That's why you're not seeing it on the
19 screen behind the panel.

20 Q. Ms. Miller, do you have any objection to the gallery
21 seeing these photographs?

22 A. None whatsoever.

23 TC [COL KRAEHE]: Your Honor, I'd ask that they also be

1 displayed to the gallery.

2 MJ [Lt Col BRAUN]: Okay. Any objection based upon that,
3 Counsel?

4 CDC [MS. FUNK]: No, Your Honor. Thank you.

5 LDC [MR. BOUFFARD]: None at all, Your Honor.

6 MJ [Lt Col BRAUN]: Okay. Very well, then. The -- what has
7 been marked as Prosecution Exhibit 11 can be published to the
8 witness, the panel, as well as the entirety of the courtroom, the
9 gallery.

10 Trial Counsel, you may proceed.

11 Q. And, ma'am, do you see the photograph that is displayed?
12 Can you tell us what you see there?

13 MJ [Lt Col BRAUN]: Counsel, I'm going to stop you for a
14 moment here. I don't think we've completely published the exhibit.

15 **[Pause.]**

16 MJ [Lt Col BRAUN]: Okay. Please proceed, Counsel.

17 Q. What do we see there, ma'am?

18 A. This is a photograph taken of my brother and his wife,
19 Polly, at their wedding on the 4th of September, five weeks before
20 the bombing.

21 Q. And we know that your brother was killed in the bombing.
22 Was Polly there also?

23 A. She was.

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1 Q. And was she impacted by the bombing as well?

2 A. She was terribly, badly injured. She was very badly
3 burned. She was burned to 43 percent of her body. She managed to
4 escape -- two of the -- her best friend and another great friend were
5 standing next to her. They didn't escape.

6 She was on fire. She was running, running across a roof.
7 She managed to get down into a -- into a road. Somebody put her out,
8 put out the flames. She was in the -- in the road. Somebody passed
9 her some water. Somebody passed her a telephone, and she phoned her
10 parents and told them that the bomb had -- something -- some
11 explosion had happened and that she was -- she didn't know where my
12 brother was.

13 She didn't know where Annika was, and she didn't know where
14 Bettina was. She was there with 10 friends, and she was the only
15 survivor of that group from the Hong Kong Football Club.

16 She's been --

17 Q. Were you -- sorry.

18 A. She's been left with lifelong burns. One side of her is
19 shorter than the other. She can't run. She finds it difficult to
20 exercise. She has to have constant -- well, not constant, but she
21 has frequent operations on her burns to loosen them because they
22 tighten and they make -- they warp her body.

23 We didn't know for a long time if she was going to survive.

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1 And when we repatriated my brother's body, we did it through
2 Australia, and the foreign office arranged for us to take his body to
3 Brisbane to the hospital so -- where the hospital was, where Polly
4 was, so that my mother, who had flown out to look after Polly, could
5 sit with him before he was taken back to the U.K.

6 I will never forget being in those wards with people dying
7 in the wards around from their burns. It was -- it was unspeakable.

8 And so Polly has had a lifetime of -- she can't sleep
9 through the night for the -- still, 21 years later, for the pain of
10 the burns. And she, my family, and her family, have set up a burns
11 charity for adults burns victims, which has raised more than 3
12 million pounds for burns -- adult burns victims in memory of what
13 happened in Bali and in recognition of what terrible, terrible
14 injuries burns are.

15 Q. Do you know whether Polly was asked to provide a written
16 victim impact statement in connection with these proceedings?

17 A. She was and she did. And I know that she found it
18 especially excruciating.

19 Q. Was it very difficult for her to write that?

20 A. It was very difficult for her to write that, because she
21 not only lost her husband, but she also lost her best friend. She
22 also -- and nine other very, very close friends, and has continued to
23 live with the most enormous trauma.

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1 Q. Did Polly want that -- did Polly want to come here and
2 read that victim impact statement herself?

3 A. She did, but she felt she couldn't make it. She
4 didn't -- she couldn't face it, and she asked me to read it. The
5 physical -- it's probably not easy for everybody to understand what
6 a -- what a -- what traveling out to Guantanamo can be, and you have
7 to be reasonably physically fit to do it. And I think she felt that
8 she wasn't sure that she would be.

9 Q. And I know other people in your family have been impacted
10 by this tragedy, including your mother.

11 A. Indeed. And she is in her eighties and wouldn't be
12 physically capable of coming out. So she has -- she asked my son,
13 Solomon, who you'll be seeing next, to read it for her.

14 Q. And she -- your mother, her name is ----

15 A. Felicity.

16 Q. And she was also asked to provide a written impact
17 statement?

18 A. She did. And, again, it was one of the hardest things
19 she's ever had to do. But we're all passionately committed to
20 acknowledging the tragedy of the Bali bombing and the lasting impact
21 it's had on us, our family, a great many friends, and a much wider
22 community.

23 Q. Was your mother able to travel here to present that victim

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1 impact statement herself?

2 A. No, her health wouldn't allow it. And my -- the tragedy
3 in itself shortened my father's life, and so he's now no longer with
4 us.

5 Q. I'd like, again, to direct your attention to the screen
6 and Prosecution Exhibit Number 11. I'm going to go through these
7 photographs, and if you can tell the panel something about them.

8 A. Excuse me.

9 So this is my brother, as ever lively, very -- always -- he
10 was a very energetic, enthusiastic, and vibrant man.

11 And this is my brother's coffin in Bali. We decorated it
12 with photographs from his wedding just five weeks earlier.

13 And him at the top of one of his favorite mountains in the
14 Highlands of Scotland.

15 And yes, that's one of the saddest photographs.

16 This is in the morgue in Bali. We were joined -- that's me
17 and my partner, and we were joined by my brother's best man and one
18 of his ushers so that we could bless his coffin. Before we were due
19 to leave, there was a cholera outbreak in the morgue, but we went in
20 anyway even though all the other -- everybody else had to stay
21 outside, including the British police and the foreign office, because
22 we couldn't bear his body to leave Bali without being blessed and to
23 have family with him.

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1 My brother was a great sportsman, and he also was
2 passionately interested in animal conservation, and he ran both the
3 London and New York marathons in a rhino suit. And this is him
4 having, I think, completed just the London marathon in his rhino suit
5 to raise money for saving rhinos.

6 And that's him doing the New York marathon. He'll be the
7 one looking like a rhino.

8 This is a photograph taken at my brother's wedding just five
9 weeks before he was killed. In the center you'll see Dan and Polly.
10 The girl kneeling on the ground with a pink or reddish stole is
11 Bettina Brandes. She was one of the German -- she was a great friend
12 of my brother's, and she was standing next to Polly when the bomb
13 went off, and she died.

14 Then next to my brother is Annika, Annika Linden, who was
15 also standing next to Polly. She also died in the bombing.

16 This is a photograph of the rugby team. It wasn't the rugby
17 team at that particular October rugby tournament, but that is the
18 Hong Kong Vandals. My brother is in the center. He has his
19 arm -- his left arm around Peter Record, who was also killed in the
20 bombing.

21 Then at the extreme right you'll see Charlie van Renen, who
22 was also killed in the bombing. They were very fit, very young, very
23 enthusiastic men at the top of their -- in the height of their lives,

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1 at the top of their games.

2 It should never have happened.

3 Q. Was someone asked to provide a written impact statement on
4 behalf of Mr. Record?

5 A. Yes. His sister asked me to read -- his sister, Jenny,
6 lives in London, and she couldn't face coming to Guantanamo, and her
7 health hasn't been good. And she asked me to read the statement for
8 her; however, as we know, that was not possible.

9 Q. And is it important that that statement be read before the
10 panel?

11 A. I think it is very important. I think it's very important
12 because these are -- these are real humans that have suffered
13 desperate, visceral, human, agonizing deaths. I think it's important
14 that that sense is portrayed best through the human voice.

15 Of course, you can read it. Of course, you can see it. But
16 I do think it's -- it has a more profound, direct impact if it's read
17 by people.

18 Q. Looking again at the photos, we have a few more.

19 MJ [Lt Col BRAUN]: Counsel, you need to be identifying the
20 photo that you're showing the witness for the record, please.

21 TC [COL KRAEHE]: Sorry, Your Honor.

22 This is page 9 of 11 of Prosecution Exhibit 11.

23 A. That's my brother's body in the morgue in Kuta, Bali, with

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1 the photograph of him and Polly kissing five weeks before he was
2 killed.

3 Q. And page 10 of Prosecution Exhibit 11?

4 A. That's Dan and Polly a few months before the Bali bombing
5 in Hong Kong at the Hong Kong Football Club grounds. Happy, young.

6 Q. And, finally, page 11 of Prosecution Exhibit 11?

7 A. That's my brother and Polly in Hong Kong just a few months
8 before the bombing.

9 Q. Were you also asked to provide a written impact statement
10 in connection with these proceedings?

11 A. I was.

12 Q. Was that difficult for you to write?

13 A. Very difficult.

14 TC [COL KRAEHE]: Your Honor, at this time I would like to
15 display to the court and to the witness the Prosecution Exhibit 18,
16 which is the victim impact statement.

17 MJ [Lt Col BRAUN]: Okay. If we could publish that to the
18 bench first, please.

19 And, Counsel, you want to publish that to the witness and
20 the entirety of the courtroom, or just to the witness and the bench?

21 TC [COL KRAEHE]: Just to the witness for the moment, Your
22 Honor.

23 MJ [Lt Col BRAUN]: Okay. You may publish the exhibit to the

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1 witness.

2 Q. Do you see what's been entered into evidence as
3 Prosecution Exhibit 18?

4 A. Excuse me. I do.

5 Q. And do you recognize that?

6 A. I do.

7 Q. Okay. Do you have a copy of that with you?

8 A. I do.

9 TC [COL KRAEHE]: Your Honor, I'd ask -- I'm sorry.

10 Q. Go ahead, and if you would be so kind as to read your
11 victim impact statement.

12 A. The impact of the murder of my brother, Nathaniel Dan
13 Miller on the 12th of October, 2002.

14 Who knew when I woke up in a hotel in Mumbai, India, early
15 on the 13th of October, 2002, that I was about to drop through a trap
16 door from normal life into one that would never be the same again.
17 An odd sensation crept over me as I turned on my phone, and to my
18 surprise, a flood of texts and answer phone messages arrived.

19 Thus, the news broke that my brother, Dan, his new wife,
20 Polly, and their friends and teammates were caught up in the Bali
21 bombing on the 12th of October, 2002.

22 My family insisted that I fly straight back to the U.K.,
23 despite me wanting to go to Bali to help to look for Dan.

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1 First, there was the impact of the appalling shock of the
2 bombing, knowing Dan was missing and that Polly was critically
3 injured. Lots of people were missing and lots of people had been
4 killed.

5 No one knew where Dan was, although he was being searched
6 for in hospitals and morgues with kind people phoning with updates,
7 but no news. Dan became officially missing and then missing,
8 presumed dead.

9 Throughout this time were emerging accounts at the
10 stupefying horror of the bombing, the agonizing stories of the
11 carnage and suffering, and the desperate searches by families,
12 friends, and strangers for the missing and the awful facts of
13 hospitals filled with identified victims and morgues full of
14 unidentified victims.

15 Even now the hair stands up on the back of my neck and
16 prickles with the memory of the disbelief, horror, and sleepless
17 nights, the desperate phone calls across time zones and languages,
18 pleading for a miracle with gods I hadn't spoken to for years.

19 We endured weeks of waiting for news of Dan whilst hearing
20 the tragic unfolding news of others, knowing the lack of it was
21 making the worst outcome for Dan more likely. And then, finally, the
22 unbearable news that there would be no miracle and that Dan's body
23 had been identified by DNA.

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1 Dan was three years younger than me. He was christened
2 Nathaniel, but, at 3, I couldn't pronounce that and had quickly
3 mangled it to "not that Daniel" and then simply "Dan." We grew up
4 together first in London and then in the Kent countryside with
5 frequent trips to a second home in the Highlands of Scotland.

6 He was kind, thoughtful, and very academic. He loved dogs,
7 especially Labradors and Jack Russells, dogs that very much featured
8 in our childhood. We had chickens, rabbits, cats, but it was always
9 the dogs he returned to.

10 He went on to great academic success and became a barrister,
11 having read law at Cambridge, and was working as a lawyer in Hong
12 Kong at the time he died. He also had impressive sporting success,
13 in particular running, rugby, and hockey.

14 He was attending an annual rugby tournament in Bali when he
15 was killed, having been the top try scorer the previous year. He was
16 happy, successful, very recently married, and at the top of his game,
17 and he was murdered at 31.

18 My partner and I flew to Bali three weeks after the bombing
19 to collect and repatriate Dan's body. The unfathomable emotions of
20 disbelief, confusion, sadness, and pain were unforgettable. As I
21 flew between Heaven and Earth, I could not believe where I was or
22 what we were doing. I could not believe that my lovely brother Dan
23 was dead. I have no other siblings. I was now an only child coping

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1 with my parents' crippling grief and my survivor's guilt.

2 I was sure that it would destroy my parents and, arguably,
3 it did destroy my father. He never recovered from the loss of his
4 only son and died from a massive heart attack a few years later.

5 Nothing could have prepared us for the carnage in Kuta,
6 Bali, especially the appalling experience of the site of the bombings
7 just three weeks after the attack. Whenever I hear the word "Bali,"
8 the smell of the bomb site and the smell of rotting human flesh comes
9 to me. It felt as if it was in my nostrils for years afterwards.
10 Now it only comes when I hear someone say "Bali."

11 It's a lot with me just now. I will never forget seeing the
12 bomb crater, the 1 kilometer zone of destruction around it. We were
13 led to the site, clambering through houses to get in -- to get to it
14 three weeks later as they were still clearing the roads.

15 The worst was the fact that it had been planned, deliberate,
16 and targeted; the bomb crater as bleak as the merciless souls that
17 planned it.

18 I stood where Dan probably died and tried to sense him there
19 whilst being jostled by press and cameras. It was not until I saw
20 his coffin that I felt his presence.

21 I was just so upset to have the overwhelming sensation that
22 he was just so glad to see us. The morgue in Bali was full of
23 refrigerated trucks and containers full of bodies and body parts.

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1 There was a cholera outbreak at the morgue, so the U.K.
2 police and the foreign office staff could not accompany us into the
3 morgue, but we still went in to hold prayers and stand with my
4 brother's coffin. I laid his wedding photographs on his coffin from
5 five weeks earlier, family photos, photos of him climbing his
6 favorite mountains in the Scottish Highlands, bits of English Oak
7 tree, and we read Psalm 23.

8 My time in Bali was the most profoundly sad time of my life.
9 I was not angry. Anger can't go as deep as sadness, I have found.

10 An abiding memory as I flew back from Australia over the
11 deep red Outback was the realization that time moved on and that the
12 time would come five, 10, 20 years later, and I wondered what I would
13 think then looking back.

14 And so here we are, 21 years later. I spoke at Dan's
15 wedding, his funeral, and now here.

16 Dan was a great friend as well as a brother, and it's his
17 thoughtful fraternal chats and phone calls that I miss most. I have
18 lost a much, much loved only brother. I have lost his companionship,
19 care, love, and support throughout my life. I'm so sad for the years
20 that Dan missed, sad for the children he hoped to have.

21 I've had to cope with Dan's loss, but also his absence from
22 our lives, our parents, the appalling horror of the bombings and the
23 long, long road to some form of justice.

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1 There's been love, kindness, and happiness, and success
2 along the way, but always with a shadow of Dan's loss. I've had to
3 learn to live with the trauma, loss, and sadness never far away.

4 I don't hate. I'm not angry. I'm just deeply sad.

5 You had no right. You had no right to do what you did. It
6 was beyond cruel. Your tokenistic victims were defenseless,
7 much-loved individuals, and you ensured the suffering was worse with
8 the use of napalm-like chemicals to ensure those not killed by the
9 immediate blast would be burnt.

10 People died horrendous deaths, often months later. In many
11 ways, it feels like the bombs are still going off as the
12 repercussions echo down the years.

13 Over the years, I've had great difficulty sleeping,
14 difficulties with concentration, and intrusive thoughts. The smell,
15 the grief, the sadness have haunted me. For long periods of time, I
16 couldn't listen to music. I have been tormented by the slow pace of
17 criminal justice process, but deeply upset by the executions and
18 early releases of some of the more junior perpetrators of the team
19 you and Hambali assembled. I find the merciless finality and
20 unfairness of Dan's death riles me still.

21 Dan's death, the manner of it, has left me with deep
22 personal long-term trauma and a traumatized family. I have tried
23 many techniques over the years to cope, some helpful, some not.

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1 The best and most effective has been running. Dan was an
2 accomplished runner. He completed London and New York marathons in a
3 rhino suit in under five hours, in fact. It is when running that I
4 feel closest to him, and he's still the fastest runner I have ever
5 met.

6 Dan's death has left a lasting impact felt by my family,
7 Dan's friends, colleagues. A charity has been set up in his name to
8 raise money for adults burns victims, Dan's Funds for Burns, which
9 has raised 3 million in 20 years -- in the 20 years it's been set up.

10 Ultimately, your murderous and cowardly attack on
11 defenseless young civilians showed that love cannot be destroyed even
12 by a wickedness as deep as yours. You didn't need to plot and plan
13 to kill. You could have furthered your aims by peaceful methods.

14 You have pled guilty, for which I thank you. And I would
15 request in the name of all the suffering that you have caused to give
16 all the details of those involved in the plot so that all can be
17 caught and that you remember your victims.

18 In the future, you may go free. You may have children of
19 your own, and you may grow old, but as you enjoy the precious luxury
20 of life, remember those you killed, and I ask you that you work to
21 stop others following in your vicious path.

22 The Bali bombing showed the depth of human depravity,
23 cowardice, and malice, but from others, kindness, love, humanity, and

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1 understanding. And so 21 years after my brother's murder, I know
2 that although I will carry Dan's loss all my life, love is stronger
3 and more enduring than death. And if anything is to come of this, I
4 would hope for peace, understanding, and mutual respect amongst
5 people and religions. As Gandhi said, "An eye for an eye will make
6 the world go blind."

7 Q. Thank you, ma'am. Is there anything else you would like
8 the panel to know about your brother Dan?

9 A. As Matthew said, you can eulogize for ages.

10 And he could be jolly irritating, but actually, he was a
11 really fantastic individual. He was very -- he was enormously
12 energetic and enthusiastic, and so vibrant. And it's -- you'll hear
13 the word "unspeakable" a lot today, but really, it is an unbearably
14 devastating loss.

15 Q. Thank you, ma'am. Thank you for being here.

16 TC [COL KRAEHE]: Those are all the questions I have, Your
17 Honor.

18 MJ [Lt Col BRAUN]: Ma'am, if you could stand by one moment,
19 and I will determine whether there are any additional questions for
20 you.

21 WIT: Of course.

22 MJ [Lt Col BRAUN]: Defense Counsel, do you have
23 cross-examination?

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1 CDC [MS. FUNK]: Thank you, Ms. Miller. We have no questions.

2 LDC [MR. BOUFFARD]: Ms. Miller, thank you for coming, and we
3 have no questions.

4 MJ [Lt Col BRAUN]: Does any panel member have a question of
5 this witness?

6 That is a negative response from all panel members.

7 Trial Counsel, is this witness subject to recall?

8 TC [COL KRAEHE]: No, Your Honor.

9 MJ [Lt Col BRAUN]: Ma'am, I thank you for your testimony.
10 I'm going to permanently excuse you. That means you may return to
11 your seat.

12 I do ask that while this trial continues, you not discuss
13 your knowledge or testimony in this case with anyone other than the
14 accused and counsel. Do you understand?

15 WIT: I do. Thank you.

16 MJ [Lt Col BRAUN]: Thank you. You may step down.

17 WIT: Thank you.

18 TC [COL KRAEHE]: Thank you, Ms. Miller.

19 **[The witness was warned, permanently excused, and withdrew from the**
20 **courtroom.]**

21 TC [COL KRAEHE]: And, Your Honor, the United States calls
22 Solomon Miller.

23 MJ [Lt Col BRAUN]: Before we call that witness,

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1 Counsel -- Panel Members, I promised you a comfort recess every hour.
2 Are you fine moving ahead until my planned break at 1740, or would
3 you like that 10-minute recess now?

4 PRESIDENT: Your Honor, we'd like the 10-minute recess now.

5 MJ [Lt Col BRAUN]: I think that's understandable.

6 Counsel, I'm going to place this commission in recess for 10
7 minutes, and then when we resume, we'll resume with your next
8 witness.

9 TC [COL KRAEHE]: Yes, Your Honor. Thank you.

10 MJ [Lt Col BRAUN]: This commission's in a 10-minute recess.

11 **[The military commission recessed at 1716, 24 January 2024.]**

12 **[The R.M.C. 803 session was called to order at 1730,**

13 **24 January 2024.]**

14 MJ [Lt Col BRAUN]: This commission will come to order.

15 Parties are present. Members are absent.

16 Before we call the members and continue with the
17 government's sentencing case, Trial Counsel, I just want to take this
18 opportunity to remind you of the ruling the commission entered
19 yesterday as it pertains to third-party statements of victims. The
20 commission provided a pretty clear ruling on that, and I'm confident
21 all counsel understood it, as they stated as such yesterday on the
22 record.

23 I trust that, as an officer of the court, you are not going

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1 to lead witnesses down an impermissible line of questioning based
2 upon that ruling.

3 Is that a fair assumption?

4 TC [COL KRAEHE]: Yes, Your Honor. And that's been my intent
5 all along. But I did want to ask them about the statements that they
6 weren't allowed to read, because I may exercise the option to read
7 them myself to the panel during closing, and I just wanted to explain
8 the circumstances that would -- why I'd want to do that.

9 MJ [Lt Col BRAUN]: Okay. While I can appreciate that, I do
10 believe there is a very careful line that must be walked. Commentary
11 on a ruling of the commission is one thing. Providing the panel with
12 what would be confusing information as to why they're not hearing
13 about something and potentially inviting them to speculate as to why
14 they might not be hearing about something is a different concern.

15 And that's part of the concern that the commission has, is
16 making sure that the panel isn't attributing a lack of information
17 improperly. It may be a matter that the commission will correct with
18 a -- an instruction to the panel to explain to them that it was the
19 commission's decision that third-party victim impact statements will
20 not be read by individuals who are not the author of that statement.

21 TC [COL KRAEHE]: Yes, Your Honor. Not by -- not through the
22 government.

23 MJ [Lt Col BRAUN]: Okay. Counsel for Mr. bin Lep?

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1 LDC [MR. BOUFFARD]: Yes, Your Honor. We have an alternative.
2 And what I would like to do, if I may, is brief the court on this.
3 And there may be a very obvious reason why it can't happen, but if it
4 may be able to happen, then it would at least give the court time to
5 do the proper research.

6 And the proposal is that as to the two government witnesses
7 who otherwise would have wished -- excuse me -- Colonel Kraehe says
8 three government witnesses who otherwise, absent the court's prior
9 ruling, have read statements of third parties, my proposal would be
10 for us to adopt them as witnesses in our case in chief, call them,
11 relax the rules, and allow them to read the statements under the
12 relaxed rules that we can relax but the government cannot.

13 And I guess my -- just my preliminary question is: Does
14 that sound like something that's doable?

15 MJ [Lt Col BRAUN]: Relaxing the rules does fundamentally
16 change some things for sentencing purposes. The commission is aware
17 under 1001 that the defense has the ability to relax the rules, and
18 there's case law precedent permitting a similar relaxing of the
19 rules, then, for the government's case in any rebuttal matters.
20 There is precedent for that that the commission's aware of.

21 I would be taking an opportunity, though, to look at that
22 specifically as it applies to unsworn statements of third parties,
23 unless the parties have legal precedent they can direct the

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1 commission to, and I'm more than happy to review that. That would be
2 something that I would take a recess to make sure that I've squared
3 the law on that before providing a ruling from the bench.

4 LDC [MR. BOUFFARD]: Yes, sir. And hearsay and authenticity
5 come to mind immediately. You know, my sense is if those were
6 waived, you know, anyone could read a statement from anyone else. So
7 if there is some other bar to it and you feel that that could be
8 relaxed if we chose to, then we would do that.

9 TC [COL KRAEHE]: And, Your Honor, to be clear, this was not
10 the government's proposal, and there's absolutely no intention in the
11 government agreeing to this proposal by counsel for Mr. bin Lep, no
12 intention whatsoever to circumvent the court's ruling, which we
13 acknowledge and respect.

14 MJ [Lt Col BRAUN]: Okay. So with that, Counsel, can you
15 proceed with witnesses at this point, if you would like the benefit
16 of the court providing an opinion as to the proposal by counsel for
17 Mr. bin Lep? How would you like to proceed? It is your sentencing
18 case.

19 TC [COL KRAEHE]: We have a scheduled break at 1740, Your
20 Honor, and I think this would be a good opportunity to take a break,
21 because I won't be able to get through my next witness. And it is my
22 intention just to continue calling witnesses and to question them
23 consistent with the court's ruling.

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1 MJ [Lt Col BRAUN]: Okay. Counsel for Mr. bin Amin, it
2 appears five minutes, we're not -- I'm not inclined to call -- have
3 the government call a witness and then recess five minutes later
4 halfway through a witness' testimony.

5 Are you comfortable taking a break at this time until 1805?

6 CDC [MS. FUNK]: Yes, Your Honor.

7 MJ [Lt Col BRAUN]: Okay. Counsel for Mr. bin Lep?

8 LDC [MR. BOUFFARD]: Yes, Your Honor.

9 MJ [Lt Col BRAUN]: Okay. During that recess, the court will
10 look into the alternate method, understanding that, Government, that
11 may impact the order in which you may want to call your witnesses.
12 So that may be something you want to do or something you don't want
13 to do. However, the commission will at least look into it should it
14 be an approach the parties want to pursue.

15 Anything further we can take up, then, before I call the
16 members to recess?

17 Trial Counsel?

18 TC [COL KRAEHE]: Nothing further, Your Honor.

19 MJ [Lt Col BRAUN]: Okay. Counsel for Mr. bin Amin?

20 CDC [MS. FUNK]: Nothing, Your Honor. Thank you.

21 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

22 LDC [MR. BOUFFARD]: Nothing, Your Honor. Thank you.

23 MJ [Lt Col BRAUN]: Very well. Bailiff, please call the

1 members.

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

3 **[The military commission was called to order at 1736,**

4 **24 January 2024.]**

5 MJ [Lt Col BRAUN]: This commission's called to order.

6 Parties are present. Members are again present.

7 Members, we are right up against that 1740 recess that I
8 told you about earlier, and I don't think it would be -- I'm not
9 ready to call a witness to then recess four minutes later. We're
10 just not going to get very far, and I don't think that's helpful to
11 the witness. I don't think that's helpful to the commission.

12 So what we're going to do is I'm going to recess the
13 commission until 1805 so that we can then resume the government's
14 sentencing case.

15 So with that, then, I'm going to recess the commission until
16 1805.

17 **[The military commission recessed at 1737, 24 January 2024.]**

18 **[The R.M.C. 803 session was called to order at 1810,**

19 **24 January 2024.]**

20 MJ [Lt Col BRAUN]: This commission will come to order.

21 Parties are present. Members are absent.

22 Counsel, quickly before I call the members, I did have an
23 opportunity to look at R.M.C. 1001 and some case law as it pertains

1 to defense counsel's request.

2 I'm also cognizant, however, that this is the government's
3 sentencing case. So I'm going to let the government continue to
4 present its case as it sees fit, as is its rights under the rules.

5 Should the parties decide, and we get to the point in the
6 proceeding, Defense Counsel, where you can make a request to relax
7 the rules, we can take that up at that time. But I'm going to let
8 the parties determine how they want to apply the rules to this
9 commission as we move forward, I think that's the correct approach,
10 and let the parties present their sentencing cases as they see fit.

11 Aside from that, it was brought to my attention that there
12 may be some additional flexibility on the evening recess. Is that
13 accurate?

14 Counsel for Mr. bin Amin, I see you nodding your head yes.

15 CDC [MS. FUNK]: So I've spoken with my client, and I've
16 spoken with Colonel Kraehe. I did not have an opportunity to speak
17 with Mr. Bouffard.

18 But my client represents to me that the evening prayer, the
19 last prayer, must be done between 7:00 and midnight. So 7:00 would
20 be when you could start that last prayer of the night, but it is not
21 a hard stop like some of other prayers during the day are.

22 We would have no objection to going -- it looks like the
23 balance of the witnesses are relatively manageable, and so we would

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1 have no issue with going later. I know this has been a really long
2 day for everyone, but in particular the victim family members. We'd
3 have no issue with them all going tonight, if they're up for it, and
4 if Mr. Bouffard agrees.

5 Thank you.

6 MJ [Lt Col BRAUN]: Thank you, Counsel.

7 LDC [MR. BOUFFARD]: We completely agree. And my client is
8 also indicating that that interpretation of the prayer schedule is
9 correct. So as far as we're concerned, we can go as late as everyone
10 can tolerate.

11 MJ [Lt Col BRAUN]: Okay. Trial Counsel, position?

12 TC [COL KRAEHE]: Your Honor, I'm prepared to move forward
13 expeditiously, subject to the court's wishes on that.

14 MJ [Lt Col BRAUN]: I appreciate that.

15 I will take that under advisement and poll the panel. The
16 commission's cognizant that it needs to ensure that everybody here on
17 these long days is able to focus and concentrate appropriately: The
18 panel, the accused, counsel.

19 So insomuch as it makes sense, I'm prepared to go a little
20 later; however, I'm going to temper that with what I think is
21 appropriate for the proceedings, and frankly, appropriate for the
22 administration -- the fair administration of justice.

23 So -- but I do appreciate the clarification, Counsel. That

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1 does -- that flexibility, knowing that that's there, is helpful to
2 the commission.

3 CDC [MS. FUNK]: I have one more question, Your Honor.

4 This is my first military commissions case, and many of the
5 rules are strange and foreign to me, but here's my question: Can we
6 as defense counsel agree to relax the rules for the government's
7 case?

8 MJ [Lt Col BRAUN]: So not until it is your sentencing case.
9 That -- if you're -- the timing of that request must occur during
10 your sentencing case. So at this time, no, you may not ask to relax
11 the rules for purposes of the government to present evidence.

12 CDC [MS. FUNK]: I see. Thank you.

13 MJ [Lt Col BRAUN]: Okay. Anything else before we call the
14 members?

15 Trial Counsel?

16 TC [COL KRAEHE]: No, Your Honor.

17 MJ [Lt Col BRAUN]: Defense Counsel?

18 CDC [MS. FUNK]: No, Your Honor.

19 LDC [MR. BOUFFARD]: No, Your Honor.

20 MJ [Lt Col BRAUN]: Very well. Bailiff, please call the
21 members.

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

23 **[END OF PAGE]**

1 **[The military commission was called to order at 1814,**
2 **24 January 2024.]**

3 MJ [Lt Col BRAUN]: This commission will come to order.

4 Parties are present. Members are now again present.

5 Trial Counsel.

6 TC [COL KRAEHE]: Your Honor, the United States calls Solomon
7 Miller.

8 Solomon, would you please face me, and raise your right
9 hand.

10 **SOLOMON MILLER, was called as a witness for the prosecution, was**
11 **sworn, and testified as follows:**

12 **DIRECT EXAMINATION**

13 **Questions by the Trial Counsel [COL KRAEHE]:**

14 Q. You may be seated.

15 Would you please state your full name for the record.

16 A. Solomon Dan Lemane Miller.

17 Q. Where do you currently reside?

18 A. London, United Kingdom.

19 Q. How old are you?

20 A. Eighteen.

21 Q. Did you have a family member, a loved one, lost in the
22 Bali bombings?

23 A. Yes, I did.

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1 Q. Would you be so kind as to share with the panel that loved
2 one's name?

3 A. Dan Miller.

4 Q. Is this the same Dan Miller that Susanna Miller testified
5 about earlier?

6 A. Yes, it is.

7 Q. And what relation is Dan Miller to you?

8 A. He was my uncle.

9 Q. Correct me if I'm wrong, but he must have died before you
10 were born?

11 A. Yes.

12 Q. What have you learned about Dan and what kind of person he
13 was from your family?

14 A. All I've learned about Dan is nothing but positive. He
15 was a -- he was a very accomplished man in his unfortunately
16 shortened life. He was -- he excelled in academics. He did nothing
17 but good.

18 He went to Cambridge to read law. He went on to a very high
19 position in a law firm in Hong Kong. He was very sporty. He
20 ran -- as my mother said, he ran marathons. He was extremely good at
21 rugby. He was good at tennis and squash.

22 And also, he was a very kind man from all I've -- all I've
23 heard. He loved animals and sort of -- he was nothing but a good

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1 person and one that the world really should see.

2 And I'm -- he had a lot of friends, many of whom died along
3 with him. And he was someone that was -- is missed and played a sort
4 of -- a big part in many people's lives.

5 Q. How has his loss impacted your family?

6 A. Well, obviously the massive -- it's a massive loss. It's
7 a loss of half of the -- half of the children of my grandparents, and
8 it's a loss of cousins, of uncles, of -- it's a sort of -- obviously
9 a deep rift, a sort of irreplaceable rift that can't be -- cannot be
10 explained.

11 It can't be -- it's obviously a huge loss, and it's not just
12 the loss of the people, it's the loss of -- it's the loss of the sort
13 of memories that we all would have made together and the loss of
14 Christmases and birthdays, of everything that comes with family.

15 And it's sort of irreplaceable, irreplaceable loss of not
16 just Dan, but the family members that would have been and could have
17 been.

18 Q. How often do your family speak of Dan?

19 A. Every time I see my grandma, it's evident that she's not
20 only thinking of Dan, but she mentions him all the time.
21 Any -- anything that reminds her of him, she doesn't hesitate to say
22 to -- and sort of -- and let everyone know what the world is missing.

23 We -- every year we will go to the anniversary of the

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1 bombing and we will spend the day, the evening, and many others
2 talking and reflecting. But it's a loss that we're constantly
3 reminded of.

4 Q. And on a daily basis, how does his loss impact your family
5 emotionally and psychologically?

6 A. Well, as I say, you -- with anyone that's missing, there
7 are things that remind everyone of them. And the psychological
8 impact on my grandmother and on my mother as well is deep.

9 My grandmother constantly will talk about -- every day she
10 will think of -- she will think of Dan and everything that she
11 tells -- everything that reminds her of him.

12 And we're also reminded in other ways, in ways of the loss
13 of other family members related to Dan and the loss of my grandpa,
14 which was arguably influenced by the loss of Dan. It was very much
15 in his last -- ever since, he was greatly affected and it affected
16 his mood, and it became very present that it was a deeply
17 affecting thing for him. And, obviously, then, his loss is reflected
18 in not only the memories of him, but the memories of Dan.

19 Q. Well, I want to thank you for being here today and
20 testifying.

21 TC [COL KRAEHE]: Those are all the questions I have, Your
22 Honor.

23 MJ [Lt Col BRAUN]: Thank you. Sit there for one moment here.

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1 I'm going to see if there are any additional questions for you.

2 WIT: Thank you.

3 MJ [Lt Col BRAUN]: Defense Counsel, any cross-examination?

4 CDC [MS. FUNK]: No, Your Honor.

5 Thank you, Mr. Miller. We have no questions.

6 LDC [MR. BOUFFARD]: Mr. Miller, thank you for being here.

7 And we also have no questions.

8 MJ [Lt Col BRAUN]: Does any panel member have a question of
9 this witness?

10 That is a negative response from all panel members.

11 Trial Counsel, is this witness subject to recall?

12 TC [COL KRAEHE]: No, Your Honor.

13 MJ [Lt Col BRAUN]: Mr. Miller, I want to thank you for your
14 testimony here today. This concludes the questions we have for you.
15 You can return to your seat. I'd just ask that while this trial
16 continues you not discuss your testimony or knowledge in this case
17 with anyone other than accused and counsel.

18 Do you understand?

19 WIT: Yes.

20 MJ [Lt Col BRAUN]: Thank you. You may step down.

21 WIT: Thank you.

22 TC [COL KRAEHE]: Thank you, Solomon.

23 **[The witness was warned, was permanently excused, and withdrew from**

1 **the courtroom.]**

2 TC [COL KRAEHE]: Your Honor, the United States calls Chris
3 Snodgrass.

4 **[Pause.]**

5 TC [COL KRAEHE]: Sir, would you please face me and raise your
6 right hand.

7 **CHRISTOPHER PAUL SNODGRASS, was called as a witness for the**
8 **prosecution, was sworn, and testified as follows:**

9 **DIRECT EXAMINATION**

10 **Questions by the Trial Counsel [COL KRAEHE]:**

11 Q. You may be seated.

12 Would you please state your full name for the record.

13 A. Christopher Paul Snodgrass.

14 Q. Okay. This evening I'll be asking you a few questions
15 that may be difficult for you to answer. So if at any time you need
16 a break, please let me know, and I'll do my best to accommodate you.

17 Where do you currently reside, sir?

18 A. In Glendale, Arizona.

19 Q. Were you compelled to testify here or are you here
20 voluntarily?

21 A. Voluntarily.

22 Q. Why did you come here?

23 A. To allow the people here and those that might know about

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1 the Bali bombing to realize what effect it had on our family and
2 many, many other families, and to hopefully allow the defense to
3 realize what damage they've done.

4 Q. Did you lose a loved one in the Bali bombings?

5 A. I can hardly hear you.

6 Q. I'm sorry. Did you lose a loved one in the Bali bombings?

7 A. We lost our daughter, Deborah Lea Snodgrass. She's 33
8 years old.

9 Q. Were you asked to write a victim impact statement in
10 connection with these proceedings?

11 A. Yes, I was.

12 TC [COL KRAEHE]: Your Honor, at this time I would like to
13 display for the witness and the commission what has been entered into
14 evidence as Prosecution Exhibit 26.

15 MJ [Lt Col BRAUN]: Okay. If we could publish that first just
16 to the judge.

17 And, I'm sorry, Counsel. You wanted to publish that to the
18 witness. Did you also want to publish that to anyone besides the
19 witness?

20 TC [COL KRAEHE]: No, Your Honor.

21 MJ [Lt Col BRAUN]: Okay. I just wanted to make sure I
22 understand your request.

23 Your request is granted. We can publish Prosecution

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1 Exhibit 26 to the witness.

2 Q. If you look on your screen, sir, you may see what is
3 Prosecution Exhibit 26.

4 A. Yes.

5 Q. Is that your victim impact statement?

6 A. Yes.

7 Q. And do you have a copy of it with you?

8 A. Yes.

9 Q. Would you be so kind as to read it to the panel?

10 A. Is that what you want me to do now?

11 Q. Yes, sir.

12 A. As any family would, I have numerous regrets that I have
13 lived with since our daughter's death 21 years ago. Could I have
14 said this or done that, which might have had her leave Bali and come
15 back home?

16 Numerous times we warned her of the risk of living in Bali,
17 but our messages were not successful. Due to the terrorist
18 activities worldwide, I have learned to despise over 20 percent of
19 the world population, Muslims, and carry that hatred to all aspects
20 of my life. This defect in my persona has, needless to say, been
21 very toxic in my life and for those who know and care about me.

22 I'm a religious person, and the hate-filled person I have
23 become is certainly not what I wanted. My family has had to endure

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1 the loss of our only daughter, our son's sister, along with other
2 family members and friends, along with putting up with my negativity.

3 As her tombstone says: Daughter, sister, and friend to the
4 world. The only positive of getting older for me is knowing I will
5 be with her again soon.

6 Please deal with these murderers in such a manner that they
7 can't do to others as they've done to us.

8 Q. Thank you, sir.

9 Is there anything more you would like the panel to know
10 about your daughter Debbie?

11 A. She was an amazing person. Loved to travel. She never
12 came home without a pet that she would find in Mexico or Greece, or
13 anywhere else.

14 She was one of the most inclusive people that I've ever
15 known. She -- everywhere we went, she was always a positive light
16 for everybody that knew her.

17 We have constant reminders of her in our house on a daily
18 basis. She reached out in her 20s and went around the world from
19 teaching English in Italy, Greece, Korea, and then in Bali.

20 She was just a magnificent person in all aspects. Never
21 came across anyone who did not think highly of her kindness to all
22 people.

23 Q. Is there anything more that you would like the panel to

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1 know about what impacts Debbie's loss has had on you and your family?

2 A. Well, I lost a brother when he was 23, and it destroyed my
3 parents' marriage, tore the family apart. I think that's a common
4 scenario when people lose loved ones, especially children. I had no
5 realization what it was like. I lost a brother, but I never had a
6 clue what it was like to lose a child.

7 And I know that our son deeply, deeply misses his sister.
8 Our grandchildren miss her. But nobody misses her more than my wife
9 and I. The time that we've spent that we missed can never be
10 recalled.

11 Fortunately, she lived a magnificently good life, and I know
12 where she is now. I hope to join her -- in good time.

13 The other thing I need to say is I want to thank the federal
14 government. They did a magnificent job informing us and helping us
15 during that terrible several days after her death, getting her home,
16 allowing us to have services for her, and very, very respectful of my
17 wife and I in helping us through this terrible, terrible time at the
18 time of her death. And we've actually had communications since that
19 have always been helpful and positive. I can't think the federal
20 government enough for that.

21 Q. Thank you, sir. I want to thank you for coming here and
22 telling us about Debbie.

23 TC [COL KRAEHE]: Those are all the questions I have, Your

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1 Honor.

2 MJ [Lt Col BRAUN]: Thank you, Trial Counsel.

3 Sir, if I could just have you remain seated for a moment.
4 I'm going to see if there are any additional questions for you from
5 the commission.

6 Defense Counsel, any cross-examination?

7 CDC [MS. FUNK]: Mr. Snodgrass, thank you. We have no
8 questions.

9 LDC [MR. BOUFFARD]: Mr. Snodgrass, thank you for coming, sir.
10 And we have no questions.

11 MJ [Lt Col BRAUN]: Does any member -- does any panel member
12 have a question of this witness?

13 That is a negative response from all panel members.

14 Trial Counsel, subject to recall?

15 TC [COL KRAEHE]: No, Your Honor.

16 MJ [Lt Col BRAUN]: Mr. Snodgrass, I want to thank you for
17 your testimony here today. Those are all the questions that we have
18 for you, so I'm going to excuse you. You may return to your seat in
19 the back.

20 I just ask that while this commission continues, you not
21 discuss your testimony or knowledge with anyone other than accused
22 and counsel.

23 Do you understand?

1 WIT: Yes.

2 MJ [Lt Col BRAUN]: Thank you.

3 TC [COL KRAEHE]: Thank you, sir.

4 **[The witness was warned, was permanently excused, and withdrew from**
5 **the courtroom.]**

6 TC [COL KRAEHE]: Your Honor, the government calls Susan
7 Snodgrass.

8 Ma'am, if you'd please face me and raise your right hand.

9 **SUSAN SNODGRASS, was called as a witness for the prosecution, was**
10 **sworn, and testified as follows:**

11 **DIRECT EXAMINATION**

12 **Questions by the Trial Counsel [COL KRAEHE]:**

13 Q. You may be seated.

14 Would you please state your full name for the record,
15 please.

16 A. Susan Elizabeth Snodgrass.

17 Q. I know that this may be difficult for you. If you need
18 any time, need to take a break or anything, please let me know, and
19 I'll do my best to accommodate you.

20 A. Thank you.

21 Q. Okay. Are you the wife of Chris Snodgrass, who just
22 testified?

23 A. I am.

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1 Q. You're here to talk about -- tell us about Debbie, your
2 daughter?

3 A. My daughter, yes.

4 Q. Okay. Did you prepare a victim impact statement for
5 purposes of this proceeding?

6 A. I did.

7 TC [COL KRAEHE]: Your Honor, at this time I would like to
8 display for the witness what has been entered into evidence as
9 Prosecution Exhibit 14. It's two pages.

10 MJ [Lt Col BRAUN]: Okay. If we could publish that to the
11 bench first, please.

12 Okay. Trial Counsel, you may publish Prosecution Exhibit 14
13 to the witness.

14 Q. Ma'am do you see Prosecution Exhibit 14?

15 A. I do.

16 Q. Is that the victim impact statement that you prepared?

17 A. It is.

18 Q. And I see that it has a photograph of your daughter?

19 A. It does.

20 Q. Would you mind if I published that to the panel and to the
21 world outside?

22 A. I'd love for them to see her, yes.

23 TC [COL KRAEHE]: Your Honor, we'd ask that Prosecution

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1 Exhibit 14 be published to the panel and to the gallery.

2 MJ [Lt Col BRAUN]: Defense Counsel, any objection?

3 CDC [MS. FUNK]: Absolutely not, Your Honor.

4 LDC [MR. BOUFFARD]: Certainly not, sir.

5 MJ [Lt Col BRAUN]: Very well. Trial Counsel, your request is
6 granted. Prosecution Exhibit 14 may be published to the gallery as
7 well as to the panel.

8 Q. Would you please read your victim impact ----

9 MJ [Lt Col BRAUN]: Counsel, I'm going to have you pause for a
10 moment.

11 I apologize, ma'am. It takes a minute to actually publish
12 the photo, so if we can just pause here for one second, please.

13 Okay. Please proceed, Trial Counsel.

14 Q. Ma'am, if you'd please read your victim impact statement.

15 A. I have written this impact statement, I bet, 100 times in
16 my head. How do you put into words the impact of losing your child?
17 I made a career of being the best mom I could be. While my husband,
18 Debbie's father, was in veterinary school, I babysat four other
19 children in addition to mine so I wouldn't have to work outside the
20 home, and I could be with my children.

21 Having said that, Debbie's loss has affected our entire
22 family and friends that loved her, each in a different way; some with
23 anger, many with much grief. We tried to keep her spirit alive. I

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1 refuse to let someone killing my daughter destroy my life.

2 We have given a scholarship in her honor to so many
3 deserving young ladies. Debbie loved people. She was accepting of
4 everybody. Taking her from this Earth was a really big loss. She
5 gave so much and made such an impact in her short 33 years.

6 Thank you for taking the time to hear about my precious
7 daughter. Respectfully. Thank you.

8 Q. Thank you, ma'am. Is there anything more you would like
9 the panel to know about Debbie?

10 A. Everywhere we go, everybody would have always something
11 nice to say about Debbie. And as her dad said, we -- she loved
12 animals. And I think at her funeral, as I was walking out of the
13 church, there was a young man standing at the door, obviously with
14 disabilities. And he pulled me over and he said: Mrs. Snodgrass, I
15 just want to tell you, Debbie was always nice to me.

16 She was just that person. Made me very proud to be her
17 mother.

18 Q. Is there anything more that you'd like the panel to know
19 about what impacts Debbie's loss has had on you and your family?

20 A. Tremendous loss. It -- I'm a positive person, so I keep
21 trying to make something good out of it, like giving her scholarship
22 and everything I can to honor her. That's my goal, but it's been a
23 challenge.

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1 So please don't let it happen to anybody else. Please.

2 That's it.

3 Q. Thank you, ma'am. And thank you for coming here to tell
4 us about Debbie.

5 A. Thank you. You're welcome.

6 TC [COL KRAEHE]: That's all the questions I have, Your Honor.

7 WIT: Thank you.

8 MJ [Lt Col BRAUN]: Ma'am, if I could just have you remain in
9 your seat for one moment, please.

10 WIT: Sure.

11 MJ [Lt Col BRAUN]: Defense Counsel, any cross-examination?

12 CDC [MS. FUNK]: Mrs. Snodgrass, thank you.

13 WIT: You're welcome.

14 CDC [MS. FUNK]: We don't have any questions.

15 WIT: Thank you.

16 LDC [MR. BOUFFARD]: Mrs. Snodgrass, thank you so much for
17 being here, and we have no questions.

18 WIT: Thank you.

19 MJ [Lt Col BRAUN]: Does any panel member have a question for
20 this witness?

21 That is a negative response from all panel members.

22 Trial Counsel, subject to recall?

23 TC [COL KRAEHE]: No, Your Honor. Thank you, ma'am.

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1 MJ [Lt Col BRAUN]: Ms. Snodgrass, before you step down, I
2 just have a quick instruction for you. That concludes the questions
3 we have for you. I'm going to excuse you at this time. You can
4 return to your seat in the back.

5 I'd just ask that while this trial continues you not discuss
6 your knowledge or testimony in this case with anyone other than
7 accused and counsel.

8 Do you understand?

9 WIT: I do.

10 MJ [Lt Col BRAUN]: Thank you very much.

11 WIT: You're welcome.

12 TC [COL KRAEHE]: Thank you, ma'am.

13 **[The witness was warned, was permanently excused, and withdrew from**
14 **the courtroom.]**

15 TC [COL KRAEHE]: Your Honor, the United States calls Maggie
16 Stephens.

17 Good evening, ma'am. Would you please face me and raise
18 your right hand.

19 **MARGARET STEPHENS, was called as a witness for the prosecution, was**
20 **sworn, and testified as follows:**

21 **DIRECT EXAMINATION**

22 **Questions by the Trial Counsel [COL KRAEHE]:**

23 Q. You may be seated.

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1 Would you please state your full name for the record.

2 A. Margaret Jean Stephens.

3 Q. I know this may be difficult for you. So if at any time
4 you need to take a break or to stop, please let me know, and I'll do
5 my best to accommodate you.

6 A. Okay. Thank you.

7 Q. Where do you currently reside?

8 A. In Worcestershire in the U.K.

9 Q. And are you here voluntarily today?

10 A. Yes, I am.

11 Q. Why did you come here?

12 A. Because for me it's important as Neil's mother. I went to
13 Bali to bring him back, and it's important that this process ----

14 CDC [MS. FUNK]: Your Honor, I am so sorry, but it appears the
15 translation is not working, and our client is not hearing what this
16 witness has to say. Otherwise, I wouldn't have interrupted at all.

17 MJ [Lt Col BRAUN]: That's ----

18 CDC [MS. FUNK]: I apologize.

19 MJ [Lt Col BRAUN]: That is a technical problem we can
20 address.

21 Ma'am, I'm going to have you stand by one moment and see if
22 we can resolve this. If not, I may have you step down for a moment
23 to give us a recess to allow that to occur.

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1 CDC [MS. FUNK]: I'm actually told it's back on, Your Honor.

2 MJ [Lt Col BRAUN]: Okay. Ma'am, I apologize for that. I'm
3 just going to turn it back to Trial Counsel.

4 Please proceed.

5 Q. Ma'am, did you lose a loved one in the Bali bombings?

6 A. I did.

7 Q. And could you please share his name with us?

8 A. I lost my son, Neil Bowler.

9 Q. Okay. And how old was he when he was killed?

10 A. 27.

11 Q. Did you send the prosecution a photograph of your son?

12 A. Yes, I did.

13 TC [COL KRAEHE]: Your Honor, at this time, I'd like to
14 display to the witness what has been marked as Prosecution Exhibit 7.

15 MJ [Lt Col BRAUN]: Okay. If we could publish that just to
16 the bench, please.

17 Okay. Trial Counsel, we can publish that to the witness.

18 Q. Ma'am, is that the photograph of Neil that you sent to us?

19 A. Yeah. That was taken -- the other half of that photograph
20 is me. It was taken when he was living in Hong Kong and we visited
21 him a few years before he died.

22 Q. And do you have any objection to me publishing that to the
23 panel and to the gallery?

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1 A. No, I don't.

2 TC [COL KRAEHE]: Your Honor, we'd so request at this time.

3 MJ [Lt Col BRAUN]: Defense Counsel, any objection?

4 CDC [MS. FUNK]: No, Your Honor.

5 LDC [MR. BOUFFARD]: No, Your Honor.

6 MJ [Lt Col BRAUN]: Okay. Very well.

7 Trial Counsel, your request is granted. Please publish the
8 exhibit to the panel as well as the gallery.

9 Q. Ma'am, were you also asked to --

10 MJ [Lt Col BRAUN]: Counsel, I'm going to ----

11 TC [COL KRAEHE]: Sorry.

12 MJ [Lt Col BRAUN]: ---- have you pause one more time while we
13 wait for that to -- for the technology to catch up to us.

14 Okay. Trial Counsel, please proceed.

15 Q. Ma'am, were you also asked to provide a written victim
16 impact statement for use in these proceedings?

17 A. I was.

18 TC [COL KRAEHE]: Your Honor, at this time I would like to
19 display to the witness what has been entered into evidence as
20 Prosecution Exhibit 23.

21 MJ [Lt Col BRAUN]: You may -- this may be published to the
22 witness.

23 TC [COL KRAEHE]: Yes, Your Honor.

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1 Q. Ma'am, is that the victim impact statement that you
2 provided?

3 A. It is.

4 Q. Okay. And do you have a copy of that with you?

5 A. I do.

6 Q. Would you be so kind as to read that to the panel, please.

7 A. Yes, I will.

8 To put this victim impact statement into context, it is
9 important firstly to say something about Neil himself.

10 Neil was 27 years old when he was killed. Born in London,
11 his family moved to Worcestershire when he was eight. Tragically,
12 when Neil was 14, his father, John, died suddenly in Washington while
13 on a business trip. Neil's younger brother and sister, Andrew and
14 Sally, and I, were all shocked and devastated by John's death. Thus,
15 our family has suffered an early experience of having to return home
16 from abroad the body of a loved one after their death.

17 Neil went to school in Worcester. His love of rugby from an
18 early age saw him play for his school throughout his youth,
19 eventually captaining the first team. He also played for the county.
20 Neil went to Loughborough University where he hoped to take his rugby
21 aspirations to a greater level. However, on arrival at this renowned
22 sporting university, he quickly realized that he was in a different
23 league. Being up against three international youngsters for his

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1 position, Neil had to quickly lower, albeit reluctantly, his
2 ambitions to that of club and recreational rugby.

3 Whilst at university, Neil met Lis during his first week,
4 and they stayed together for the next nine years until his death. It
5 has always been comforting to know that he had found his soulmate in
6 Lis. They were a happy, adventurous couple -- sorry -- who lived
7 life to the full, and always looked out for each other. I know their
8 future together would have been a bright one.

9 Neil and Lis always wanted to travel, and following
10 university after a brief period in the U.K., they went to Hong Kong
11 where they lived and worked for three years before moving to
12 Singapore. There Neil worked for *The Economist*. He played
13 recreational rugby both in Hong Kong and then in Singapore for the
14 Singapore Cricket Club, for whom he was playing when he traveled to
15 the fateful Bali Tens tournament. As we know, the club took 15
16 players, eight of whom were killed.

17 Neil was close to Andrew and Sally, brought closer probably
18 because of the sudden death of their father while they were children.
19 There were, though, the usual sibling rows and squabbles, and I think
20 it would be fair to say that Andrew and Sally thought Neil always got
21 off lightly when it came to being told off, or taking the blame for
22 something. Being older, he may have been more adept than to
23 outmaneuver them.

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1 Neil was a big character with a terrific zest for life both
2 in work and play, and carved out a life for himself largely by his
3 own endeavors with no handouts from anyone. He was no angel, and had
4 the usual scrapes and misdemeanors in his youth and young years. But
5 his father's death certainly gave him an early reality check, and
6 probably made him grow up quickly.

7 The impact of Neil's death was, and continues to remain,
8 enormous. I lost my son. His brother and sister lost their brother.
9 Having married again after his father's death, Neil gained a new
10 family in his stepfather, Peter, and bonus brother and sister, Hannah
11 and Oliver. They miss him greatly, and were hugely impacted by his
12 death.

13 It is simply not possible in a written statement to describe
14 fully what Neil's death, and thus, his absence throughout our lives
15 for the last 21 years has meant for his family and friends. It has
16 been different for us all. There has been counseling, various
17 therapies, and strategies to help us cope, especially in the early
18 years.

19 Also, it was Lis, his partner, who had remained in Singapore
20 at the time of the bombings, who had to ring me on that fateful day
21 to tell me about the tragedy, and that Neil was missing. What a
22 thing to have to do. She suffered hugely, but mostly found a new
23 life eventually, and has since left Asia.

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1 October the 12th, 2002, was life-changing for us all, but we
2 have learned, and especially through the efforts of Andrew and Sally,
3 for it not to be totally life-defining.

4 One of the consequences of such a tragedy is that the focus
5 moves, perhaps inevitably for a while, away from other family members
6 that also have needs. The early weeks and months especially were
7 numbingly difficult for the family, especially during the wait to
8 bring Neil's body back for his funeral.

9 I'm sure, though of course I don't know, that given the
10 person he was, Neil would have wanted us all not only to survive, but
11 to thrive in his absence, and I hope we have tried to do that, albeit
12 not in the way we envisaged.

13 It wasn't his fault. Neil went to play rugby, to have a fun
14 weekend, just like all the other victims. The only consolation I and
15 his family have is that Neil knew nothing about what happened.
16 Standing in a bar, having played rugby, and then having a few drinks.
17 Tragically, of course, that was not the case for all the victims.

18 He was compassionate and undertook voluntary work with young
19 kids in Hong Kong, and I'm not saying this to make him appear a
20 saint. It was just the way he was brought up. He knew he had been
21 given, and earned, opportunities and he grabbed them 100 percent.

22 Neil was a young man with ambition, a huge capacity to love,
23 and be involved in the lives of others. It's easy to try and portray

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1 in such a statement a victim as some sort of hero. He wasn't. Neil
2 was simply my son, a brother, a partner, and a great friend with a
3 huge network of people who loved him.

4 Neil's death wasn't an accident. He wasn't ill. Neil was
5 murdered by those who didn't know him, and had no knowledge of his
6 life. It remains for us, as it does for others, unfathomable.

7 Neil is buried in our village churchyard alongside his
8 father, but at 27, that shouldn't be the case. A mother should not
9 be visiting the grave of her son. Neil was robbed of life through no
10 fault of his own. We miss him hugely.

11 I'm sorry.

12 Q. Thank you, ma'am.

13 A. I'm sorry. I'm sorry.

14 Q. Is there anything more you would like the panel to know
15 about Neil?

16 A. No. I apologize for crying.

17 No. It just -- it sort of -- it's just unfathomable. You
18 know, it devastates so many other lives, not only for people here and
19 the families, but of all those who have been involved. And it is
20 there. It's always there, and you always want it to be there.

21 Yeah. It's dreadful. I think that's all.

22 Q. Is there anything more you'd like the panel to know about
23 the impacts to you and your family that Neil's loss has caused?

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1 A. No. It just goes through everybody, everybody's life.
2 And the consequence for his brothers and sisters, not just myself,
3 but it ripples on through everything, and -- yeah. That's just how
4 it is.

5 Q. Ma'am, I'd like to thank you for being here and sharing
6 with us ----

7 A. Thank you.

8 Q. ---- about Neil.

9 A. Thank you.

10 TC [COL KRAEHE]: Those are all the questions I have, Your
11 Honor.

12 MJ [Lt Col BRAUN]: Ma'am, if I could just have you remain in
13 your seat for one moment, please.

14 WIT: Of course. Yeah.

15 MJ [Lt Col BRAUN]: Thank you.

16 Defense Counsel, any cross-examination?

17 CDC [MS. FUNK]: Ms. Stephens, thank you. I have no questions
18 at this time.

19 LDC [MR. BOUFFARD]: Ms. Stephens, thank you so much for being
20 here. We also have no questions.

21 WIT: Thank you.

22 MJ [Lt Col BRAUN]: Does any panel member have a question of
23 this witness?

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1 That's a negative response from all panel members.

2 Trial Counsel, subject to recall?

3 TC [COL KRAEHE]: No, Your Honor.

4 MJ [Lt Col BRAUN]: Ms. Stephens, I want to thank you for your
5 testimony here today. I'm going to permanently excuse you, which
6 means you can return to your seat in the back.

7 I just ask that while this trial continues, you not discuss
8 your knowledge or testimony with anyone other than accused and
9 counsel.

10 Do you understand?

11 WIT: I do.

12 MJ [Lt Col BRAUN]: Thank you.

13 WIT: Thank you.

14 TC [COL KRAEHE]: Thank you, ma'am.

15 **[The witness was warned, was permanently excused, and withdrew from**
16 **the courtroom.]**

17 TC [COL KRAEHE]: Your Honor, the United --

18 MJ [Lt Col BRAUN]: Trial Counsel, before you call your next
19 witness, I'm going to take a moment here.

20 Panel Member Number 1, we have the opportunity to go a
21 little later; however, I appreciate it has been a very long day. You
22 all have reviewed a lot of materials. And I want to ensure that if
23 we do continue, that you all feel you can continue to give this

1 proceeding all the attention that it deserves.

2 My intent would be to call maybe one or two more witnesses,
3 and then perhaps break for the evening. As it is, it is just,
4 frankly, getting late. However, before I do that, I want to know if
5 you all would like to just recess at this point and reconvene in the
6 morning.

7 So, Panel Member Number 1, if you could poll your fellow
8 panel members, and let me know how you would like to proceed, that
9 would be appreciated.

10 PRESIDENT: Your Honor, we'd like to proceed.

11 MJ [Lt Col BRAUN]: Okay.

12 Trial Counsel.

13 TC [COL KRAEHE]: Yes, Your Honor. United States calls Eleni
14 Panagoulas.

15 Ma'am, would you please face me and raise your right hand.

16 **ELENI PANAGOULAS, was called as a witness for the prosecution, was**
17 **sworn, and testified as follows:**

18 **DIRECT EXAMINATION**

19 **Questions by the Trial Counsel [COL KRAEHE]:**

20 Q. You may be seated.

21 Would you please state your full name for the record.

22 A. Eleni Panagoulas.

23 Q. I know this may be difficult for you. If at any time you

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1 need a break, please let me know, and we can accommodate you.

2 Can you please tell the panel where you currently reside?

3 A. In Berlin, Germany.

4 Q. Were you compelled to testify here or are you here
5 voluntarily?

6 A. No, I came here voluntarily.

7 Q. And why did you come here?

8 A. I came here to express the facts that this loss of my
9 brother has had on myself and my family and to honor his memory.

10 Q. And you lost a brother in the Bali bombings?

11 A. Yes. My brother Dimitri Panagoulas, who was 27 years old.

12 Q. Did you send the government photographs of your brother?

13 A. I did.

14 TC [COL KRAEHE]: Your Honor, at this time we'd like to
15 display for the witness what has been entered into evidence as
16 Prosecution Exhibit 10.

17 MJ [Lt Col BRAUN]: If we could please publish those to the
18 bench first, Counsel.

19 TC [COL KRAEHE]: Your Honor, these consist of eight pages.

20 MJ [Lt Col BRAUN]: Do you plan on publishing all eight pages
21 to the witness, Counsel?

22 TC [COL KRAEHE]: I do, Your Honor.

23 MJ [Lt Col BRAUN]: Okay. I'd just ask that when you do that

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1 that you identify for the record which page of the prosecution
2 exhibit you are showing the witness as you move through the exhibit.

3 TC [COL KRAEHE]: Yes, Your Honor.

4 MJ [Lt Col BRAUN]: And, Counsel, your request to publish
5 Prosecution Exhibit 10 to the witness is granted.

6 Q. And, Ms. Panagoulas, do you recognize these photographs?

7 A. I do.

8 Q. And I'll just leaf through them real quickly. Are these
9 the photographs that you sent to us?

10 A. Yes.

11 Q. And do you have any objection to these photographs being
12 displayed to the panel and to the gallery?

13 A. I do not.

14 TC [COL KRAEHE]: Your Honor, at this time we'd request that
15 the photographs be displayed to the panel and the gallery.

16 MJ [Lt Col BRAUN]: Okay. Before we do that, let the record
17 show that trial counsel has flipped through all eight pages of
18 Prosecution Exhibit 10 for the witness to view prior to her previous
19 answer.

20 Defense Counsel, any objection to publishing Prosecution
21 Exhibit 10 to the panel and the gallery?

22 CDC [MS. FUNK]: We do not have any objection, Your Honor.

23 Thank you.

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1 LDC [MR. BOUFFARD]: No objection, sir.

2 MJ [Lt Col BRAUN]: Okay. Very well.

3 Trial Counsel, your request is granted. Prosecution
4 Exhibit 10 will be published to the witness, the panel, the gallery.

5 TC [COL KRAEHE]: Okay. And we'll just wait a moment for that
6 to happen.

7 Q. And if you could look at page 1 of Prosecution Exhibit 10,
8 can you tell us what that shows?

9 A. That's my brother Dimitri and myself.

10 Q. And approximately when was that taken?

11 A. It must have been about a year before, judging from my
12 age, before October 12th, 2002.

13 Q. And so how old were you when your brother was killed?

14 A. I was 10 years old.

15 Q. And your brother was how old?

16 A. 27.

17 Q. Okay. And we're looking now at page 2 of Prosecution
18 Exhibit 10.

19 A. This is my father and my brother, also sometime -- I don't
20 remember exactly when -- before 2002.

21 Q. And now we're looking at page 3 of Prosecution Exhibit 10.

22 A. This is us, the four siblings. My brother is sitting on
23 the leftmost side, hugging my eldest sister, Alexandra, in between,

1 and to the right is my sister Mary.

2 Q. Now we're looking at page 4 of Prosecution Exhibit 10.

3 A. This is my mother hugging my brother. I've never -- I've
4 never seen her this happy since 2002 happened.

5 Q. Page 5 of Prosecution Exhibit 10. Let me turn that.

6 A. That's Dimitri shortly before. It must have been the same
7 year, judging from his age.

8 Q. Page 6 of Prosecution Exhibit 10.

9 A. This is my sister Mary, who's also here to testify.
10 Hugging her is Dimitri, and I'm also there in the corner looking a
11 little younger. I'm 10.

12 Q. Page 7 of Prosecution Exhibit 10.

13 A. That's, again, my mother and Dimitri shortly before he
14 traveled to Bali. He had finished his military training in Greece,
15 his national service. And it was a very happy time then for our
16 family that he had completed that.

17 Q. Finally, page 8 of Prosecution Exhibit 10.

18 A. And he was a paratrooper in the military, and this was one
19 of the photos that was taken at his time there.

20 Q. And what did your brother do for a living at the time of
21 his death?

22 A. He was running his own business. He started quite young
23 and was working with my father. They were working together.

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1 Q. Now, you were also asked to provide a victim impact
2 statement for use in these proceedings; is that correct?

3 A. Yes, I have.

4 Q. Was that difficult for you to write?

5 A. It was extremely difficult.

6 Q. Okay.

7 TC [COL KRAEHE]: Your Honor, at this time I would like to
8 display for the commission and the witness what has been entered into
9 evidence as Prosecution Exhibit 24.

10 MJ [Lt Col BRAUN]: Okay. If we could publish that for the
11 bench first, please.

12 Okay. You may publish that exhibit to the witness.

13 Q. Ma'am, is that the victim impact statement that you
14 provided?

15 A. It is.

16 Q. And do you have a copy there with you?

17 A. I do.

18 Q. Could you please read your victim impact statement to the
19 panel?

20 A. Certainly.

21 My name is Eleni Panagoulas, and I am the sister of Dimitri
22 Panagoulas, who was killed in the terrorist attack of October 12,
23 2002, in Bali, Indonesia.

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1 My family has written this victim impact statement to
2 express the effects that the loss of our son and brother has had on
3 us. This has been an especially difficult task, as we have had to
4 revisit events and emotions that have particularly haunted us.

5 It has been 21 years, and yet the pain is still there. They
6 say time heals all. That is simply a lie. The grief is just as raw.
7 We have just learned to live with it.

8 When we sit all together at the table, when we celebrate, we
9 are constantly reminded that Dimitri's presence is missed. We have
10 been left with a hole in our family and with a hole in our hearts.

11 I spoke to our mother before writing this statement and
12 asked her what she would like to say, as English is not her native
13 tongue, and her words were simple: It destroyed us, both
14 psychologically and financially, and today we're still waiting for
15 justice for our son.

16 It affected us so deeply that functioning in our everyday
17 lives and in our work was very difficult. It has had emotional
18 repercussions that we have not yet recovered from, even today.

19 When the terrorist attack happened, it took a month to find
20 our son, and the anguish of not knowing where he was, if he was alive
21 or dead, not being able to be by his bedside if he was hurt was a
22 torture that no mother should ever bear.

23 My daughter Alexandra had to travel to Bali and look through

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1 charred bodies to identify her beloved brother, and the lasting
2 trauma of those days remains with her. How could I possibly convey
3 the impact that this has had on my family? Words fall short.

4 Those were the words of my mother.

5 I was 10 years old when my brother was killed, and despite
6 our 17-year age difference, I was very close to him. He was an avid
7 climber, and he taught me from a young age how to climb and would
8 take me on climbing adventures with him.

9 I remember how he helped me with my homework. He was
10 patient even when I was being difficult, and he always had energy to
11 play.

12 He was kind. He would never hurt anyone, and he was
13 completely fearless and he loved sports. That is why he traveled to
14 Bali, just to surf, and that would cost him his life.

15 He was our eldest brother, but he was not just a brother.
16 He was also a voice of reason in the family, a pillar of strength, a
17 role model, and a business partner to my father.

18 When one person is lost, you lose all that they embody and
19 all that they will embody in the future. I do not know who I would
20 be if I had grown up with my older brother. Perhaps I would be
21 different.

22 When I lost Dimitri, I lost a piece of my future and I lost
23 a piece of myself.

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1 I ask myself: What brings people to unleash this much
2 cruelty onto this world?

3 Having been affected by terrorism, I do not wish that anyone
4 ever experiences what it is like for someone to be plucked from your
5 life so violently and so needlessly, and just so suddenly. I speak
6 today to remember our brother and give him a voice, as his voice was
7 silenced prematurely.

8 I also speak on behalf of my family to express our grief and
9 take a stand against terror.

10 Witnessing the continued growth today of the monstrous force
11 of terrorism only deepens our pain. We wish to seek solace in the
12 belief that justice will prevail and will set an example by applying
13 appropriate punishments to help end the slaughter of innocent
14 civilians; otherwise, there is little hope for our future
15 generations.

16 My brother will be remembered for his love, his passion, his
17 kindness, and the happiness and laughter that he brought. There are
18 those that bring light and love in the world, and then there are
19 those that bring darkness and pain.

20 We must have faith that they will never prevail, and their
21 injustice will always be met with the strength of our laws and
22 institutions. In our hearts we wish and hope for resolution. We
23 must bring an end to hate and terror, and allow healing to begin.

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1 I want to sincerely thank the court for their time and
2 effort, and for the opportunity to speak today.

3 Q. Thank you, Ms. Panagoulas.

4 Is there anything more you would like the panel to know
5 about Dimitri?

6 A. He was so brave. I remember there was a time when there
7 was wildfires approaching, endangering our house. He was injured
8 from a motorbike accident, still in bandages recovering, and yet he
9 went and helped the firemen put out the fires. He was that kind of
10 person that would put himself in the line for others.

11 And he inspires me every day, and he's with me every day.
12 And I will continue to remember and pass on that memory so that he
13 lives on, because he will continue to live on through us.

14 Q. Is there anything more you'd like the panel to know about
15 the impacts to yourself and your family that were caused by Dimitri's
16 loss?

17 A. It's been tremendous. We think about it every day. It's
18 been difficult to talk about it, and it's been particularly difficult
19 to come here. It's really left a hole in our hearts.

20 Q. Well, Ms. Panagoulas, we thank you for coming here and
21 telling us more about Dimitri.

22 TC [COL KRAEHE]: Those are all the questions I have, Your
23 Honor.

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1 MJ [Lt Col BRAUN]: Thank you, Trial Counsel.

2 Ma'am, if I could just have you remain in your seat for one
3 moment, please.

4 Defense Counsel, any cross-examination?

5 CDC [MS. FUNK]: Ms. Panagoulas, thank you. I don't have any
6 questions for you.

7 LDC [MR. BOUFFARD]: Ms. Panagoulas, thank you for being here.
8 I also have no questions.

9 MJ [Lt Col BRAUN]: Does any member of the panel have a
10 question of this witness?

11 That is a negative response from all panel members.

12 Trial Counsel, subject to recall?

13 TC [COL KRAEHE]: No, Your Honor.

14 MJ [Lt Col BRAUN]: Ma'am, I am going to permanently excuse
15 you. I thank you for your testimony. Those are all the questions
16 that we have for you today. I'm going to allow you to return to your
17 seat in the back.

18 I just ask that while this trial continues, you not discuss
19 your knowledge or testimony in this case with anyone other than
20 accused and counsel.

21 Do you understand?

22 WIT: I do.

23 MJ [Lt Col BRAUN]: Thank you.

1 WIT: Thank you, Your Honor.

2 TC [COL KRAEHE]: Thank you, Ms. Panagoulas.

3 **[The witness was warned, was permanently excused, and withdrew from**
4 **the courtroom.]**

5 TC [COL KRAEHE]: Your Honor, the United States calls Mary
6 Panagoulas.

7 Ma'am, would you please face me and raise your right hand?

8 **MARIA PANAGOULAS, was called as a witness for the prosecution, was**
9 **sworn, and testified as follows:**

10 **DIRECT EXAMINATION**

11 **Questions by the Trial Counsel [COL KRAEHE]:**

12 Q. You may be seated.

13 Could you please state your full name for the record.

14 A. Maria Panagoulas.

15 Q. I know this is very difficult. If you need to take a
16 break, need to stop at any time, please let me know.

17 Where do you currently reside?

18 A. I live in New York City.

19 Q. Okay. And are you here today voluntarily?

20 A. Yes.

21 Q. Why did you come here?

22 A. It was important for me and for my family that this panel
23 and this court, this trial, the judge, everyone, and the accused,

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1 hear and put a face to the victim.

2 Q. Okay. The victim in this case is your brother Dimitri?

3 A. My brother, Dimitri Panagoulas.

4 Q. And Eleni, who just testified, is your sister?

5 A. She's my younger sister, yes.

6 Q. Were you asked to provide a written victim impact
7 statement for use in these proceedings?

8 A. I was.

9 TC [COL KRAEHE]: Your Honor, at this time I would like to
10 display for the witness what has been entered into evidence as
11 Prosecution Exhibit 27.

12 MJ [Lt Col BRAUN]: If we could publish that to the bench
13 first, please.

14 Okay. Counsel your request is granted. Please publish
15 Prosecution Exhibit 27 to the witness.

16 Q. Ma'am, is Prosecution Exhibit 27, is that your victim
17 impact statement?

18 A. It is.

19 Q. Do you have a copy of that with you?

20 A. I do.

21 Q. Would you please read that to the panel.

22 A. On October 12th, 2002, 202 people were burned alive, and
23 many more were injured. In their final hours, they had to endure the

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1 most excruciating pain the human body and mind can suffer.

2 My brother, Dimitri Panagoulas, four days before his 27th
3 birthday, sat at the Sari Club with friends, including an Australian
4 girl named Simone Hanley.

5 Dimitri had just served in the Greek military, and had
6 chosen to train in the special forces as a paratrooper. He was
7 young, healthy, and strong, with a very bright future ahead of him.
8 Dimitri survived the blast with 85 percent of his body burned, and
9 was airlifted to Darwin.

10 Following two days of excruciating pain, his body could no
11 longer endure this unimaginable torture, and he passed away on
12 October 14th, 2002.

13 Simone Hanley was airlifted to Perth with 90 percent burns.
14 She lived for 58 days as doctors tried to save her life, but were
15 unable to. Her sister, Renae, died at the Sari bar.

16 Thinking of the suffering and pain that my brother and the
17 others had to endure in their final hours is enough to drive any
18 mother, father, sister, or family member to madness. It has brought
19 my entire family to their knees. The mental torture continues for
20 us, and will do so in perpetuity.

21 In the aftermath of the bombings, my older sister,
22 Alexandra, and father fled to Bali to look for our brother.
23 Alexandra and my father arrived on October 14th, 2002, to Bali. My

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1 sister had to look through piles of dead bodies piled up in trucks
2 trying to identify our brother.

3 My father is one of the strongest people I know, but his
4 strength failed him when he reached Kuta and faced the site of the
5 massacre. His body just cracked under the mental pain, and he could
6 not walk or function. We had to put him back on the 22-hour flight
7 home to Greece the very next day. My father could not function
8 properly after that, and lost his business. My mother aged in a
9 moment.

10 We waited for four weeks before my brother Dimitri was found
11 and identified. It's taken an immense physical and mental toll on my
12 family, and 21 years later, the wounds are just as raw as they were
13 back then, and the pain is deeper than ever.

14 My brother's life was cut short, and in doing so, so much
15 more was also taken. My whole family and I were robbed of our future
16 with our brother. My children will never meet their uncle or learn
17 from the life lessons he had to teach them.

18 All his friends lost a future with their loyal friend, and
19 their support system. The Greek community lost an incredible
20 athlete, businessman, and community leader that cared deeply for
21 those around him and the environment; that defended those that could
22 not stand up for themselves or their rights; someone that would stare
23 terror and fear right in the face.

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1 The loss of Dimitri Panagoulas has been an immeasurable one
2 for my family, our friends, and for our society, and this is just our
3 story. This is just the story of one of the 202 heroes that lives
4 were taken that day.

5 The physical and mental torture and suffering inflicted on
6 the victims by the perpetrators and those that aided and abated **[sic]**
7 them is so painful that just trying to comprehend it, the human mind
8 shuts down.

9 The damage and loss to our global society brought by these
10 individuals is incalculable. To go back to living our life as before
11 after this immense loss is an impossibility.

12 Our happiness will always be tainted. Our joy will always
13 have a shadow of sadness, and our future has been altered forever.
14 There is no sentencing for the accused which can possibly reflect the
15 gravity and repercussions of their actions or offer them absolution.

16 The only thing to be done is to ensure that these
17 individuals never find themselves in a position to carry out such
18 acts of evil and terror ever again.

19 To the accused, all the deaths and destruction you have
20 caused have been in vain. These are simply the desires of twisted
21 psychotic and sadistic individuals. The politics and religion is
22 just an excuse. These deaths have not furthered any cause. And
23 anyone that follows and acts on this rhetoric, instead of standing up

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1 against it, is delusional and a coward.

2 Thank you.

3 Q. Thank you, ma'am.

4 Is there anything else about your brother Dimitri that you
5 would like to share with the panel?

6 A. It's been a big loss for this world, the loss of those
7 individuals, and the continuation of this monster. It affects every
8 single person here and outside of this court, and it is in our hands
9 to stop it.

10 Q. We thank you for being here and for telling us more about
11 Dimitri.

12 A. Thank you for listening to me.

13 TC [COL KRAEHE]: Those are all the questions I have, Your
14 Honor.

15 MJ [Lt Col BRAUN]: Okay. Ma'am, I'm going to have you remain
16 in your seat for a moment here.

17 Defense Counsel, any cross-examination?

18 CDC [MS. FUNK]: Ms. Panagoulas, thank you. I don't have any
19 questions for you.

20 MJ [Lt Col BRAUN]: The same, Ms. Panagoulas. Thank you for
21 being here.

22 Does any panel member have a question of this witness?

23 That is a negative response from all panel members.

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1 Trial Counsel, subject to recall?

2 TC [COL KRAEHE]: No, Your Honor.

3 MJ [Lt Col BRAUN]: Ma'am, I'm going to permanently excuse
4 you. We have no further questions for you. I'm just going to ask
5 that while this trial continues you not discuss your testimony or
6 knowledge in this case with anyone other than accused and counsel.

7 Do you understand?

8 WIT: Yes, I do.

9 MJ [Lt Col BRAUN]: Thank you. You may step down and return
10 to your seat in the back.

11 WIT: Thank you.

12 TC [COL KRAEHE]: Thank you, Ms. Panagoulas.

13 **[The witness was warned, was permanently excused, and withdrew from**
14 **the courtroom.]**

15 TC [COL KRAEHE]: Your Honor, the United States has no further
16 witnesses. And if I may just have a brief moment with co-counsel?

17 MJ [Lt Col BRAUN]: You may.

18 **[Counsel conferred.]**

19 TC [COL KRAEHE]: Your Honor, the United States rests.

20 MJ [Lt Col BRAUN]: Thank you, Trial Counsel.

21 **[Pause.]**

22 MJ [Lt Col BRAUN]: Members, this is one of those natural
23 breaking points in the proceedings. So this is a good opportunity

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1 for us to recess for the evening and then pick back up tomorrow
2 morning at 0900 on the record to begin the rest of this proceeding.

3 Before I excuse you, I do want to remind you of the caution
4 that I gave you yesterday, as it's been a significant amount of time
5 since we've discussed this, and I just want to put it first and
6 forefront on your minds before we take an extended recess.

7 Until you close and deliberate, you may not discuss this
8 commission with anyone, even amongst yourselves. You must wait until
9 you are all together in your closed session deliberations so that all
10 panel members have the benefit of your discussion.

11 During the course of the trial, including all periods of
12 recess and adjournment, you must not communicate with anyone about
13 the case, either in person or by e-mail, blog, text message, or form
14 of social media. For example, posting information about the case on
15 Facebook is considered a form of communicating about the case.

16 You must also not listen to or read any accounts of the case
17 or conduct any independent research or consult any source of law or
18 information, written or otherwise, as to any matters involved in this
19 case.

20 For example, you may not consult the Manual for Military
21 Commissions, the Manual for Courts-Martial, dictionaries, reference
22 materials, search the Internet, Google witnesses to learn more about
23 them, review a Wikipedia entry, or consult a map or satellite picture

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1 to learn more about any alleged crime scene.

2 Do all panel members understand my instruction?

3 That's an affirmative response from all panel members.

4 Do all panel members agree to follow my instruction?

5 That's an affirmative response from all panel members.

6 Counsel, are there any other matters we need to take up
7 before I recess for the evening?

8 Trial Counsel?

9 TC [COL KRAEHE]: Not from the United States, Your Honor.

10 MJ [Lt Col BRAUN]: Counsel for Mr. bin Amin?

11 CDC [MS. FUNK]: No, Your Honor.

12 MJ [Lt Col BRAUN]: Counsel for Mr. bin Lep?

13 LDC [MR. BOUFFARD]: No, Your Honor.

14 MJ [Lt Col BRAUN]: Very well, then. This commission is in
15 recess until 0900 tomorrow morning.

16 **[The military commission recessed at 1923, 24 January 2024.]**

17 **[END OF PAGE]**