

UNITED STATES OF AMERICA v. KHALID SHEIKH MOHAMMED, WALID MUHAMMAD SALIH MUBARAK BIN 'ATTASH, RAMZI BIN AL SHIBH, ALI ABDUL-AZIZ ALI, MUSTAFA AHMED ADAM AL HAWSAWI	D-081 Defense Motion to Compel Discovery of JTF Medical Records and Test Results Order
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1. On 31 December 2008, defense for Mr. bin al Shibh moved to compel disclosure of all "medical examinations, tests, results and reports performed on [the accused] while he was in the custody of the Joint Task Force-Guantanamo (JTF-GTMO)."¹ The prosecution's response of 7 January 2009, ratified on the record at the 16 July 2009 Rule for Military Commission (RMC) 803² session, asserts that all medical records and test results have been produced, albeit with some substitutes as approved by the military judge, to include a CT scan, radiologic examination report, procedure worksheet-diagnostic radiology, procedure worksheet-CT Scan and a summary description by "Dr. A." The

¹ Ramzi bin al Shibh was captured by Pakistani Forces in Karachi, Pakistan on or about 11 September 2002 and transferred to Guantanamo Bay, Cuba on or about September 2006, where he remains under control of JTF-GTMO personnel.

² A military judge may call the military commission into session to give "statutory sanction to pretrial and other hearings without the presence of members concerning those matters which are amenable to disposition on either a tentative or final basis by the military judge." See Discussion to RMC 803.

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government further attests that additional contemporary medical and mental health records will be provided forthwith.

2. It is hereby ORDERED that the government will provide any undisclosed JTF-GTMO medical and mental health records pertaining to the accused in its possession to defense counsel NLT 1 August 2009.³ Defense counsel will review all records, reports, examinations, tests and similar material produced by the government and shall supplement D-081 NLT 15 August 2009 with a specific request for relief, if the accused's discovery request remains unresolved.

3. The Commission directs that a copy of this order be served upon the prosecution and all defense counsel of record, and that it be provided to the Clerk of Court for public release. The Commission further directs the Clerk of Court to have this order translated into Arabic and served upon each of the above named accused. The underlying defense motion and government response will also be provided to the Clerk of Court for public release,

³ The government acknowledges its continuing obligation to provide the defense with medical and mental records of the accused's current treatment regimen. The government will provide any such records on the 15th and 30th of each month.

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after appropriate redactions for privacy and security
considerations.

So Ordered this 24th Day of July 2009:

/s/
Stephen R. Henley
Colonel, U.S. Army
Military Judge