

UNITED STATES OF AMERICA

v.

Mohammed Hashim

**Defense Voir Dire of Military Judge**

7 November 2008

1. The below Voir Dire questions are submitted timely to the Military Judge for the purpose of determining whether grounds exist to disqualify the Military Judge IAW R.C.M. 902:

**Position on Military Commissions Trial Judiciary**

- a) Please describe the process by which you were selected for participation as a military judge for these commissions. Did you volunteer for the position as a military judge with the commissions? If yes, why did you volunteer?
- b) Did you have to fill out any kind of form or questionnaire related to the position? If so, please provide a copy of any such document
- c) Were you interviewed for the position? If so, please indicated by whom, when, and the substance of the interview(s).
- d) Did you receive any briefings on your role and responsibilities as a military judge in these military commissions from anyone to include, but not limited to, the Chief Judge of the Military Commissions, the Office of the General Counsel for the Department of Defense, the Office of the Judge Advocate General of the Navy, the office of the Chief Prosecutor of the Military Commissions, of the Office of the Convening Authority for the Military Commissions?
- e) Please provide a description of the reporting chain for your fitness report (officer evaluation) while you are detailed to a military commissions case.

**Personal Information and Associations:**

- f) Are you or any of your family members (within the third degree of relationship) or close personal friends personally acquainted with anyone who was killed, injured, or present for any "terrorist" attack to include, but not limited to the 1983 Beirut bombing; the 1993 attack on the World Trade Center; the 1998 U.S. Embassy bombings in East Africa; the attack of the U.S.S. Cole, or the attacks on September 11, 2001 (9/11) at the World Trade Centers,

Pentagon, or in Pennsylvania? If so, please list the person, event, and a brief description of your relationship to that person.

- g) Do any of your family members (within the third degree of relationship) or close personal friends play any role in a governmental agency? If so, what agency and what branch? Does their role involve making any decision on policies or regulations that could have any affect or influence on the military commission process?
- h) Have you, or a family member (within the third degree of relationship), ever made any financial contributions to any political candidate or party? If yes, please provide the dates, name of the candidate, party, and amounts contributed.
- i) Have you or a family member (within the third degree of relationship) participated or volunteered for any political campaign? If yes, please provide the dates, name of the candidate, party, and activity or involvement.
- j) What religion (to include denomination), if any, do you (and your family members) practice?
- k) Have you ever studied Islam? If yes, please describe the nature of your studies.
- l) Do you have any close social or personal contacts with persons who practice the Muslim faith?
- m) What is your attitude with respect to Muslims in general?
- n) Have you read or studied any material on the organization of Al Qaeda? If yes, please describe the nature of your reading and/or studies.
- o) Are you personally acquainted with any of the lawyers who represent the government in the case of *U.S. v. Mohammed Hashim* or the paralegals or other staff members associated with the lawyers? If so, state which person(s) you are acquainted with and describe the nature and length of the acquaintance.
- p) Are you personally acquainted with any of the lawyers who represent the government in any other military commission case or the paralegals or other staff members associated with the lawyers? If so, state which person(s) you are acquainted with and describe the nature and length of the acquaintance.
- q) Are you personally acquainted with any of the lawyers who are with the Office of the Convening Authority to the Military Commissions? If so, state which person(s) you are acquainted with and describe the nature and length of the acquaintance.
- r) Do you have any personal or professional relationship with any of the following individuals, or has have you had any interactions, personally or in writing, with these individuals (if yes, please describe in detail):

- a. Secretary Donald Rumsfeld
  - b. Secretary Robert Gates
  - c. Assistant Secretary Gordon England
  - d. Mr. Douglas Feith
  - e. Mr. David Addington
  - f. Mr. Alberto Gonzales
  - g. Ms. Harriet Meiers
  - h. Mr. William Haynes
  - i. Mr. Daniel J. Dell'Orto
  - j. Mr. Alberto Mora
  - k. Attorney General John Ashcroft
  - l. Attorney General Micheal Mukasey
  - m. Mr. John Yoo
  - n. Mr. Jay Bybee
  - o. Mr. Jack Goldsmith
  - p. Mr. Robert Delahunty
  - q. GEN Richard Myers, USAF (Ret'd)
  - r. GEN Peter Pace, USMC (Ret'd)
  - s. GEN James T. Hill, USA (Ret'd)
  - t. RADM Jane Dalton, JAGC, USN (Ret'd)
  - u. Hon. Susan J. Crawford
  - v. MGEN John D. Altenberg, USA (Ret'd)
  - w. BG Thomas Hartmann, USAF
  - x. RADM David M. Thomas, USN
  - y. RADM Mark "Buzz" Busby, USN
  - z. RADM Harry Harris, USN
  - aa. MG Jay Hood, USA
  - bb. MG Geoffrey D. Miller, USA (Ret'd)
  - cc. CAPT<sup>3</sup> [REDACTED] JAGC, USN
  - dd. LTC<sup>3</sup> [REDACTED] USA (Ret'd)
- s) What newspapers and magazines, if any, do you subscribe to?
- t) What do you consider your primary source for news of the day's events? (i.e. Washington Post, ABC News, CNN.com etc.)

**Military Service and Professional Views:**

- u) Since September 11, 2001 have you published an article or written work or spoken publicly in either an official or unofficial capacity regarding application of the "Law of War" generally and/or detainee operations in Guantanamo Bay? If yes, please provide the circumstances and substance of that publication or speech and where available, please provide copies of the publication or speech.

- v) Did you play any role whatsoever, including a consultation role, in the development or criticism of any version of the military commission process?
- w) Have you played any role whatsoever, including a consultation role, in the development of any aspect of the preparation for any combat military operation that involved the Taliban, al Qaeda or the 'War on Terror' (including but not limited to, Operation Enduring Freedom, the response to the bombing of the USS COLE (DDG-67), or any military operation since September 11, 2001? If so, please provide details.
- x) Do you have a projected or set date of retirement from the military? If so, please state the retirement date and circumstances surrounding said retirement, particularly whether said retirement date will potentially affect your handling of this case
- y) Have you played any role whatsoever, including consultation or advisory role, in the development of any aspect of the detention, rendition, or interrogation programs of the CIA, DIA, DoD, FBI or any other department or agency concerning detainees or enemy combatants in the War on Terror?
- z) Have you discussed, opined, or stated a position, either orally or in writing, regarding the December 2, 2002, memorandum of Secretary Rumsfeld authorizing extra-legal special interrogation techniques on detainees in Guantanamo Bay? If so, please state below.
- aa) Have you ever dealt with a situation which involved the infliction of "torture," as that term is defined in the Military Commissions Act of 2006, upon a person? If so, describe the situation.
- bb) Have you ever disqualified yourself from presiding over a case as a military judge? If yes, please describe the circumstances.

**Knowledge of the Case Pending:**

- cc) Please describe what knowledge, if any, you had regarding Mr. Hashim's case prior to being detailed as military judge.
- dd) Have you read any of the record or other materials in the Combatant Status Review Tribunal which was convened to determine the status of Mr. Hashim?
- ee) Have you read, reviewed, or seen any other materials related to Mr. Hashim's case? If so please describe the nature of these materials.
- ff) Have you formed or expressed any opinions regarding the appropriate punishment to be imposed on members of the Taliban? If so, describe the opinions, state when the opinions were formed, and state in what form the opinion(s) were expressed.

gg) Do you have any relationship with persons involved in designing, planning, and publishing protocols for the rendition, interrogation, or other treatment of enemy combatants or members of the Taliban? If so, identify each person, state the length and nature of your relationship with the person, and describe the person's involvement in such activities.

hh) If supported by the law and facts, do you believe that you can make a ruling that would result in the dismissal of this case?

ii) Are you aware of any reason whatsoever that you believe that may affect your impartiality in this case?

**2. Request for Oral Argument:** The Defense may request additional oral Voir Dire based upon the Military Judge's responses to the written Voir Dire questions.

**3. Conference with Opposing Counsel:** None. A copy of the Defense Voir Dire of the Military Judge was served via e-mail on counsel for the government, concurrent with delivery to the Military Commissions Trial Judiciary.

Respectfully submitted,

By: //signed//  
3 [REDACTED] Lt Col, USAFR  
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