

**MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA**

UNITED STATES OF AMERICA v. KHALID SHAIKH MOHAMMAD; WALID MUHAMMAD SALIH MUBARAK BIN ‘ATTASH; RAMZI BINALSHIBH; ALI ABDUL AZIZ ALI; MUSTAFA AHMED ADAM AL HAWSAWI	AE 770D (GOV, KSM) Joint Status Update Regarding Discovery Ordered in AE 770C, Ruling, Mr. Mohammad’s Motion to Compel Information Regarding the Capture and Death of Daniel Pearl 29 July 2022
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1. Timeliness

This Notice is timely filed.

2. Notice

The Prosecution and defense counsel for Mr. Mohammad hereby notify the Commission that they have reached a mutual agreement pertaining to the discovery ordered by the Commission in AE 770C, Ruling. With this notice, and for purposes of this litigation only, Mr. Mohammad agrees to waive his right to discovery related to the investigation into the murder of Mr. Daniel Pearl. The Prosecution in turn agrees not to reference Mr. Pearl’s death, its circumstances, investigation, or any evidence allegedly implicating Mr. Mohammad in its commission, at any time during these proceedings including, but not limited to, pre-trial, case-in-chief, rebuttal, pre-sentencing, or post-conviction proceedings. The Prosecution will not introduce any testimony, other evidence or argument, and will instruct all government witnesses to refrain from making statements regarding the subject matter of the investigation or Mr. Mohammad’s alleged involvement in the underlying events. To the extent it has previously referenced the investigation, and/or evidence arising from any source that allegedly implicates Mr. Mohammad in the subject of the investigation, the Prosecution respectfully withdraws its reliance on any such references and requests the Commission not to rely upon any statement or assertion regarding the investigation, or Mr. Mohammad’s alleged connection to its subject

matter, in making any determination during the pendency of these proceedings. Should the murder of Mr. Pearl later become an issue before the Commission, the parties reserve the right to revisit this matter. If the Prosecution later believes the murder of Mr. Pearl has become an issue before the Commission, it shall not introduce any testimony, other evidence, argument or reference to Mr. Pearl's death, related circumstances, investigation or Mr. Mohammad's alleged connection to such matters until it has provided counsel for Mr. Mohammad with timely notice of its intention to introduce and/or refer to such matters, and the Commission has afforded Mr. Mohammad the opportunity to litigate fully his entitlement to all discoverable information and challenges to the government's evidence and arguments on all grounds including, but not limited to, whether they are the product of torture.

3. Attachments

A. Certificate of Service, dated 29 July 2022.

Respectfully submitted,

//s//
Clay Trivett
Managing Trial Counsel

Edward Ryan
Trial Counsel

Christopher M. Dykstra
Deputy Managing Trial Counsel

//s//
Gary D. Sowards
Learned Counsel

ATTACHMENT A

CERTIFICATE OF SERVICE

I certify that on the 29th day of July 2022, I filed AE 770D (GOV, KSM), Joint Status Update Regarding Discovery Order in AE 770C, Ruling, Mr. Mohammad's Motion to Compel Information Regarding the Capture and Death of Daniel Pearl, with the Office of Military Commissions Trial Judiciary and I served a copy on counsel of record.

//s//

Christopher M. Dykstra
Deputy Managing Trial Counsel
Office of the Chief Prosecutor
Office of Military Commissions