***Military Commissions:***

**October 25, 2023, Pre-Trial Hearings**

**Encep Nurjaman**

*Events:*

Encep Nurjaman was initially charged alongside Mohammed “Zubair” Farik Bin Amin and Mohammed “Lillie” Nazir Bin Lep in the 2003 bombing of the J. W. Marriott hotel in Indonesia. The three defendants were separated into different cases in early October 2023, and the

October 25, 2023, pre-trial hearing was Nurjaman’s first as a sole defendant.

Newly detailed Judge Lt. Col. Wesley Braun of the United States Air Force read his orders into the record then proceeded to answer *voir dire* questions that had previously been submitted to him in documentary form. The defense asked supplementary questions afterward but neither the defense nor the government opted to challenge the judge’s authority or fitness to preside over the case.

Following Judge Braun’s *voir dire,* the defense and the government presented argument on Appellate Exhibit (AE) 57 (whether Nurjaman can be tried for “common plan”) and AE 56 (defense assertions that logistical problems are denying Nurjaman effective assistance of counsel). The judge asked many questions about each argument but withheld judgment. The session concluded with a government report on the state of discovery, asserting that all RDI statements will be released to the defense by December 8, 2023, that all currently known discovery will be produced to the defense by early January 2024, and that discovery search is continuing with intent to produce all discovery to the defense by early January.

The judge recessed the commission with the next open session to occur in December or January, and with one ex parte presentation intended for closed session the next day.

*Observations:*

This pre-trial hearing was more emotionally fraught than the Zubair-Lillie hearing earlier in the week. Though the judge appeared unperturbed with the defense’s supplemental questioning during *voir dire* in the prior hearing, during the defense’s questioning at this hearing his voice was unsteady, and he showed other signs of nervousness.

The learned defense counsel for Nurjaman appeared more easily offended than other defense counsels in military commissions and made several comments that indicate he is unfamiliar with military law, such as the law concerning the location and housing of detainees. His argument style is particularly confrontational, and he used belittling remarks directed at opposing counsel during argument for impact. Although experienced in capital cases, he may be attempting to apply civil strategies to a military court.

During *voir dire*, the judge had been referring to his “spouse,” but it eventually became unavoidable to mention that his spouse is male. When he made that disclosure, the courtroom cameras did not turn to view any reaction by any other party, but those within view kept glancing in Nurjaman’s direction. It was unclear if it became a point of discussion between the detainee and his counsel, but the judge’s staff appeared aware of the potential for an objection on religious grounds. The defense, however, did not present a challenge to the judge after this revelation.