

**INSTRUCTIONS TO COUNSEL ON THE CONDUCT OF THE MILITARY COMMISSION IN  
US v. KHADR (25 SEPTEMBER 2007)**

1. Chronology:

- a. 4 June 2007 - Dismissal of charges - see AE 15.
- b. 8 June 2007 - Government request for reconsideration - see AE 17.
- c. 29 June 2007 - Disposition of request for reconsideration - see AE 23.
- d. 3 July 2007 - Government notice of appeal - see AE 25.
- e. 24 September 2007 - Court of Military Commission Review opinion - see AE 26.
- f.. 24 September 2007 - MJ notified of CMCR opinion - see AE 27.
- g. 25 September 2007 - Notification of CMCR opinion served on accused - see AE 28.

2. Under the provisions of RMC 707b(4)(B), the RMC 707 30-day and 120-day clocks start on 25 September 2007, the date of service of the opinion on the accused.

3. If either party disagrees with the legal conclusion stated in paragraph 2 above, that party shall file a motion for appropriate relief NLT one week from the date of this email. The opposing party may respond within one day of receipt of the motion. However, if the opposing party agrees that the legal conclusion is incorrect, the opposing party may join in the motion or present a separate motion.

4. The accused will be arraigned at 1100 hours, 11 October 2007, in the courtroom at GTMO, Cuba. Counsel may request a delay in the arraignment within 48 hours of the date/time of this email.

5. At the 4 June 2007 session, defense counsel agreed that he would prepare a brief concerning how the Foreign Attorney Consultants could be integrated into the trial without violating the provisions of the MCA (See ROT, p. 6.). This brief shall be provided to the government and the military judge by 1600 hours, 1 October 2007. The government will have until 1600 hours, 4 October 2007 to respond.

6. Counsel will be prepared to establish the motions and trial schedule after arraignment. Counsel will provide the commission and the opposing party a proposed motion and trial schedule NLT 1600 hours, 2 October 2007.

7. A modified trial script will be provided to counsel.

8. NLT 1600 hours, 2 October 2007, the government will provide the commission and the defense the materials upon which it intends to rely to establish that the accused is an Unlawful Enemy Combatant (UEC). Matters previously provided to the commission (e.g., AE 011, AE 013, AE 014, AE 021) are already in the record and may be referenced by either party. By the same date/time, the defense will provide the commission and the government any materials upon which it intends to rely to refute a designation as an UEC.

9. The parties are advised that matters presented, both factual and legal, concerning the issue of designation as an UEC, must be focused specifically on whether or not the accused meets the definition of UEC as established by the MCA (10 USC 948a(1)). This threshold or initial determination is solely for the commission to decide whether or not there is MCA-jurisdiction over the accused. Other matters which might affect jurisdiction (i.e., international law, constitutional law, criminal law) will not be heard in conjunction with this threshold or initial determination of jurisdiction.

Peter E. Brownback III

COL, JA, USA

Military Judge