

UNITED STATES OF AMERICA)	IN THE COURT OF MILITARY COMMISSION REVIEW
)	
)	MOTION TO ATTACH
)	
)	CASE No. 07-001
)	
v.)	
)	
)	
)	
OMAR AHMED KHADR)	Convened by MCCO # 07-02 Presiding Military Judge Colonel Peter E. Brownback III
)	
)	

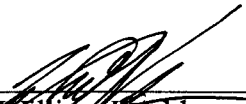
**TO THE HONORABLE, THE JUDGES OF THE COURT OF MILITARY
COMMISSION REVIEW**

Relief Sought

COMES NOW Mr. Omar Khadr and respectfully requests that this Court attach the following documents to Mr. Khadr's Motion to Abate Proceedings filed concurrently herewith:

- A) Action Memo from William J. Haynes II to the Secretary of Defense, Subject: Court of Military Commission Review Appellate Military Judges (Nov. 21, 2006)
- B) Action Memo from William J. Haynes II to the Secretary of Defense, Subject: Court of Military Commission Review Appellate Military Judges (May 4, 2007)
- C) Case Assignment, *United States v. Khadr*, CMCR Case No. 07-001 (Ct. Mil. Comm'n Rev. July 11, 2007)
- D) Action Memo from William J. Haynes II to the Secretary of Defense, Subject: Chief Judge of Court of Military Commission Review (June 11, 2007)

These documents are necessary to support the factual basis for Mr. Khadr's Motion to Abate Proceedings. Therefore, this Court should grant Mr. Khadr's motion.

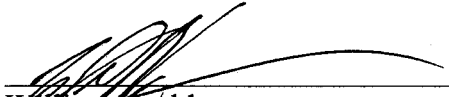


William Kuebler
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kueblerw@dodge.osd.mil
202-761-0133 ext. 116
FAX: 202-761-0510

PANEL No. _____
GRANTED (signature) _____
DENIED (signature) _____
DATE _____

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was emailed to this Court; Major Jeffrey D. Groharing, USMC; Captain Keith A. Petty, JA, USA; and Lieutenant Clayton Trivett, Jr., JAGC, USN on 19 July 2007.



William Kuebler
LCDR, JAGC, USN
Detailed Appellate Defense Counsel

11/28
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11/29
1300



GENERAL COUNSEL

FOUO

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600
ACTION MEMO

NOV 21 2006

FOR: SECRETARY OF DEFENSE
THROUGH DEPUTY SECRETARY OF DEFENSE
FROM: William J. Haynes II, General Counsel

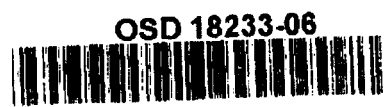
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SUBJECT: Court of Military Commission Review Appellate Military Judges

- Section 950f(a) of the recently enacted Military Commissions Act of 2006 (MCA) states that, "the Secretary shall establish a Court of Military Commission Review (CMCR) which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges."
- Prior to the passage of the MCA, this function would have been performed by judges for the Military Commission Review Panel. The following individuals were given temporary appointments to the grade of major general and selected to serve as Military Commission Review Panel judges:
 - Judge Griffin Bell (former United States Attorney General and former United States Circuit Judge, United States Court of Appeals for the Fifth Circuit) (TAB A);
 - Judge Edward G. Biester, Jr. (Court of Common Pleas of Bucks County, Pennsylvania, Seventh Judicial District; former Pennsylvania Attorney General; and former Member of the United States House of Representatives) (TAB B);
 - Mr. William T. Coleman, Jr. (former Secretary of Transportation, former clerk for Supreme Court Justice Felix Frankfurter, civil rights attorney, and advisor to four presidents) (TAB C);
 - Chief Justice Frank J. Williams (Chief Justice, Rhode Island Supreme Court) (TAB D).
- These appointments were superseded by the MCA, which requires you to establish a new appellate court – the CMCR.

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ESR MA	11/11/06	ESD	

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- Section 950f(b)(2) of the MCA states, "each appellate military judge shall meet the qualifications for military judges prescribed by section 948j(b) of this Act or **shall be a civilian with comparable qualifications.**" Emphasis added.
- Because the MCA permits the assignment of civilians to serve as appellate military judges, they will no longer need their temporary appointments to the grade of major general.
- Each individual is a highly accomplished, distinguished lawyer whose qualifications are comparable to those of military judges, which satisfies the criteria for assignment to the CMCR.
- Upon approval by you, these individuals will become civilian appellate military judges for the CMCR.

RECOMMENDATION: Designate Judges Bell and Beister, Chief Justice Williams, and Mr. Coleman as CMCR appellate military judges.

Approve  _____ Disapprove _____ Other _____

DEC 1 2006

Attachments: As stated

FOUO

ATTACHMENT A



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

ACTION MEMO

DEPSECDEF
GE APPROVES
MAY - 8 2007
HAS SEEN

MAY 04 2007

FOR: ^{deputy} SECRETARY OF DEFENSE

FROM: William J. Haynes II *WJ Haynes*

SUBJECT: Court of Military Commission Review Appellate Military Judges

- Section 950f(a) of the Military Commissions Act of 2006 ("MCA") provides that, "[t]he Secretary of Defense shall establish a Court of Military Commission Review ["CMCR"] which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges."
- Section 950f(b) of the MCA requires you to assign appellate military judges to the CMCR. These judges must be qualified military officers or civilians with comparable qualifications. *See also* Rule for Military Commission ("RMC") 1201(b)(1). On December 1, 2006, Secretary of Defense Rumsfeld assigned four civilians – Griffin Bell, Edward Beister, Frank J. Williams, and William T. Coleman – to serve as CMCR appellate military judges.
- On January 18, 2007, you promulgated the Manual for Military Commissions ("Manual"). RMC 1201(b)(1) – a rule contained in the Manual – directs that, "[e]ach Judge Advocate General shall nominate four appellate military judges, meeting the qualifications of 10 U.S.C. § 950f, for duty as appellate military judges on the [CMCR]."
- The Judge Advocates General for the Military Departments have nominated the following military judges for your consideration and assignment as appellate military judges to the CMCR (names listed in alphabetical order):
 - Army: Colonel Paul Holden, Colonel Lisa Schenck, Colonel Annamary Sullivan, and Colonel Steven Walburn. (TAB A)
 - Navy: Colonel John Feltham (USMC), Captain Eric Geiser, Captain Daniel E. O'Toole, and Captain John W. Rolph. (TAB B)
 - Air Force: Colonel Amy Bechtold, Colonel David R. Francis, Colonel Dawn Scholz, and Colonel Steven Thompson. (TAB C)

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SD SMA		DSD SMA	2/20/07
SD MA		DSD MA	2/20/07
ESA	2/20/07	DSD MA	2/20/07
STF DIR		DSD MA	2/20/07
ES	2/20/07	DSD MA	2/20/07
ESR MA	2/20/07	ESD	2/20/07



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- Each of the nominees is a highly accomplished, distinguished military lawyer and officer whose qualifications exceed all requirements for assignment to the CMCR.
- Based upon the projected CMCR workload, the desirability of scheduling flexibility for CMCR panel members, and other pertinent factors relating to the appropriate and necessary composition of CMCR panels, a total CMCR appellate military judge roster of at least 16 judges, both civilian and military, is reasonable and prudent.
- Upon your approval, these individuals will be assigned as appellate military judges on the CMCR.

RECOMMENDATION: Assign each of the above-named officers as appellate military judges on the CMCR.

Approve  Disapprove _____ Other _____
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COURT OF MILITARY COMMISSION REVIEW

UNITED STATES

v.

Omar Ahmed Khadr

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Case Assignment
CMCR Case No. 07-001
Date: July 11, 2007

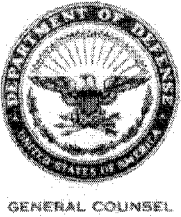
By direction of the Acting Chief Judge, the above-captioned case is assigned to Panel 1 (Rolph, Francis, and Holden) for decision.

FOR THE COURT:



LEROY F. FOREMAN
Clerk of Court

4/13



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

JUN 11 2007

ACTION MEMO

DEPSECDEF
GE APPROVES
JUN 15 2007
HAS SEEN

cc → ^{Deputy}
FOR: SECRETARY OF DEFENSE

FROM: William J. Haynes II *WJ Haynes*

SUBJECT: Chief Judge of the Court of Military Commission Review

- You established the Court of Military Commission Review ("CMCR"), and the Deputy assigned 16 appellate military judges to the CMCR pursuant to 10 U.S.C. §§ 950f(a) and (b) (Military Commissions Act of 2006). Rule for Military Commission 1201(b)(2) provides that the Secretary of Defense shall appoint a Chief Judge of the CMCR. Among other things, the Chief Judge assigns the appellate military judges to panels and prescribes procedures for CMCR appellate review.
- I considered each of the 16 appellate military judges assigned to the CMCR. Judge Griffin Bell served as the Chief Judge of the CMCR's predecessor court, the Military Commission Review Panel. I believe Judge Bell to be highly qualified and exceptionally well-suited to serve as Chief Judge of the CMCR based on his experience, qualifications and other factors pertinent to the responsibilities of the position. See biography at TAB A.
- Additionally, I recommend you create the position of Deputy Chief Judge of the CMCR and appoint a Deputy Chief Judge, from among the 16 appellate military judges currently serving on the CMCR, to provide continuity of operations. The Deputy Chief Judge would have full discretion to exercise all the authority vested in the Chief Judge, except as otherwise directed by the Chief Judge. I believe Navy Captain John W. Rolph to be highly qualified and well-suited to serve as Deputy Chief Judge of the CMCR. See biography at TAB B.
- By initialing your approval below, you would appoint Judge Bell as Chief Judge of the CMCR, establish the position of Deputy Chief Judge of the CMCR with the authority described above, and appoint Judge Rolph as Deputy Chief Judge of the CMCR. I recommend you do so.

SD CA		DSD SA	<i>RC 14 JUN</i>
SD SMA		DSD SMA	<i>25 6/14</i>
SD MA		DSD MA	<i>25 6/13</i>
JSA	<i>cc 6/12</i>	DSD MA	<i>25 6/16</i>
STC/DR		DSD MA	
ES	<i>MG 6/12</i>	DSD MA	<i>06/13 0630</i>
ESR MA	<i>AN 6/12</i>	ESD	



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RECOMMENDATION: Appoint Judge Bell, from among the 16 previously appointed appellate military judges currently serving on the CMCR, as Chief Judge of the CMCR.

Approve  Disapprove _____ Other _____

RECOMMENDATION: Establish the position of Deputy Chief Judge of the CMCR.

Approve  Disapprove _____ Other _____

RECOMMENDATION: Appoint Judge Rolph, from among the 16 previously appointed appellate military judges currently serving on the CMCR, as Deputy Chief Judge of the CMCR.

Approve 
6-15 Disapprove _____ Other _____