

UNITED STATES OF AMERICA )

v. )

Manning, Bradley E. )  
PFC, U.S. Army, )  
HHC, U.S. Army Garrison, )  
Joint Base Myer-Henderson Hall )  
Fort Myer, Virginia 22211 )

**Prosecution Response to  
Defense Specific Objection  
under RCM 1001(b)(4)  
for CDR Youssef Aboul-Enein**

**8 August 2013**

The United States respectfully requests that the Court overrule the objections set forth in the Defense Specific Objection under RCM 1001(b)(4) for CDR Youssef About-Enein because CDR Aboul-Enein's testimony described al-Qaeda's (hereinafter "AQ") use of information compromised by the accused, and CDR Aboul-Enein's testimony was within the scope of his expertise in AQ terrorism and ideology.

1. The Defense objected to "(a) CDR A-E's testimony that specifically mentioned the Little Rock recruiting station shooting and the Fort Hood shooting is irrelevant under both MRE 402 and MRE 403. The defense requests that the Military Judge not consider that testimony in her capacity as the Sentencing Authority."

**Answer:** CDR Aboul-Enein testified that AQ seeks to elicit acts of violence against the United States in a leaderless environment. CDR Aboul-Enein testified that these are examples of attacks desired by AQ. CDR Aboul-Enein's statement demonstrates examples and context of the affects of AQ propaganda. CDR Aboul-Enein testified that the accused's misconduct provided a basis for AQ propaganda, and that the accused's misconduct strengthened propaganda. AQ's propaganda is permissible aggravating evidence of the risk of damage or harm caused by the accused's misconduct. *See* Appellate Exhibit DCXXXIX. Therefore, CDR Aboul-Enein's testimony of examples are context for proper aggravating evidence.

2. The Defense objected to "(b) CDR A-E's general testimony about the implicit threat of British and American officials from militant islamist organizations through public identification. The only matters appropriate for consideration are the threats that directly related to or resulted from PFC Manning's misconduct. The general testimony about the practice is barred by RCM 1001(b)(4)."

**Answer:** CDR Aboul-Enein's testimony regarding the AQ practice of threatening British and American officials serves as foundation and explanation for the types of threats employed by AQ. CDR Aboul-Enein testified that AQ threatened individuals named in WikiLeaks in information compromised by the accused. Therefore, CDR Aboul-Enein's testimony regarding threats against British and American officials should be considered as context for the threats AQ made in Inspire magazine against individuals revealed by the accused's misconduct.

3. The Defense objected to "(c) The testimony beginning with the discussion of the "Manchester Document" and ending with how that historical lesson provides insight into how militant islamists may use the purported SIGACTs from CIDNE-I/A. This testimony involved a level of speculation that made it inadmissible. ("Speculation" was the word used by CDR A-E on both

APPELLATE EXHIBIT 648  
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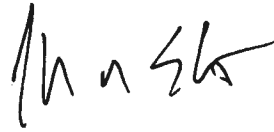
direct and cross on this particular topic.) There was no application of expertise to a given set of facts by the witness – only the telling of a fabricated narrative. MRE 702. The defense also objects to the evidence as violating RCM 1001(b)(4).” The Defense also objected to “(d) CDR A-E’s testimony regarding militant islamist organizations potential uses of SIGACTs. Again, “speculation” was the word used by CDR A-E. By speculating, even an expert fails to meet the appropriate standards for his testimony under MRE 702. The evidence is also inadmissible under RCM 1001(b)(4).”

**Answer:**

CDR Aboul-Enein’s testimony regarding the Manchester Document falls within his expertise in AQ terrorism and his broad experience, which is detailed in Prosecution Exhibit 183. CDR Aboul-Enein was qualified as an expert in AQ terrorism and its ideology. Terrorism involves the use of information to serve terrorist goals. CDR Aboul-Enein testified that compromised information in the Manchester Document was connected to AQ operational activities. Additionally, CDR Aboul-Enein testified that the information contained in the Manchester Document was associated with AQ tactics, to include tactics about resisting arrest. CDR Aboul-Enein further testified that AQ’s use of the information was discovered over ten years after AQ first obtained the information and that AQ was still in possession of the information when it was discovered in 2000. This testimony serves as foundation and explanation of AQ’s use of military information compromised by the accused. CDR Aboul-Enein testified that it was his opinion that AQ had an interest in the types of military information contained in the Manchester Document because AQ had used it.

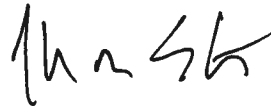
CDR Aboul-Enein testified that he was familiar with Significant Activity Reports (hereinafter “SIGACTs”). CDR Aboul-Enein testified that SIGACTs contain military information, which is similar to information in the Manchester document. CDR Aboul-Enein testified that, in his opinion, AQ is interested in SIGACT information. AQ’s interest in SIGACT information is permissible aggravating evidence of the risk of damage or harm caused by the accused’s misconduct. *See* Appellate Exhibit DCXXXIX.

CDR Aboul-Enein testified that AQ is interested in military operational information and employed such information in its training manuals. CDR Aboul-Enein testified that AQ, in Inspire magazine, requested that SIGACTs be “datamined.” CDR Aboul-Enein was qualified as an expert in AQ terrorism. Terrorism includes operational activities, to include violent attacks. Accordingly, CDR Aboul-Enein testified that, in his opinion, AQ would use information compromised by the accused in its operations because AQ had requested the information be “datamined” and AQ had used similar information previously in the Manchester Document. CDR Aboul-Enein’s opinion that AQ would use SIGACT information is permissible aggravating evidence of the risk of damage or harm caused by the accused’s misconduct. *See* Appellate Exhibit DCXXXIX. Finally, CDR Aboul-Enein also testified that AQ is a clandestine organization and that discovery of its uses of compromised information is not immediately discoverable.



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I certify that I served or caused to be served a true copy of the above on Mr. David Coombs, Civilian Defense Counsel via electronic mail, on 8 August 2013.



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