

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED:

'Abd al-Rahim Hussein Muhammed Abdu AL-NASHIRI

2. ALIASES OF ACCUSED:

SEE ATTACHED CONTINUATION SHEET. HEADNOTE OF CHARGES AND SPECIFICATIONS

3. ISN NUMBER OF ACCUSED (LAST FOUR):

010015

II. CHARGES AND SPECIFICATIONS

4. CHARGE: | VIOLATION OF M.C.A. SECTION AND TITLE OF CRIME.

SPECIFICATION

SEE ATTACHED CONTINUATION SHEET OF BLOCK II. CHARGES AND SPECIFICATIONS

III. SWEARING OF CHARGES

5a. NAME OF ACCUSER (LAST, FIRST, MI)

Ellington, John P.

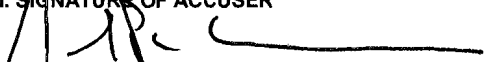
5b. GRADE

O-5/CDR

5c. ORGANIZATION OF ACCUSER

Office of Military Commissions

5d. SIGNATURE OF ACCUSER



5e. DATE (YYYYMMDD)

20081212

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser the 12 day of December, 2008, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Michael A. Rizzotti

Office of Military Commissions

Typed Name of Officer

Organization of Officer

Captain, U.S. Army

Judge Advocate

Grade

*Official Capacity to Administer Oath
(See R.M.C. 307(b) must be commissioned officer)*



Signature

IV. NOTICE TO THE ACCUSED

6. On 16 December 2008 the accused was notified of the charges against him/her (See R.M.C. 308).

Edward J. Regan, CAPT
 Typed Name and Grade of Person Who Caused
 Accused to Be Notified of Charges

Office of Military Commissions
 Organization of the Person Who Caused
 Accused to Be Notified of Charges


 Signature

V. RECEIPT OF CHARGES BY CONVENING AUTHORITY

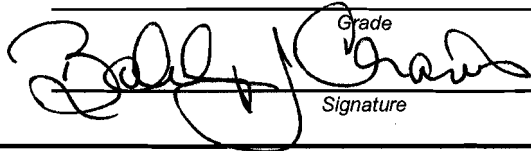
7. The sworn charges were received at 1623 hours, on 18 Dec 2008, at Arlington, VA

Location

For the Convening Authority: BOBBY J. CHAVIS

Typed Name of Officer

SSG, USA


 Grade
 Signature

VI. REFERRAL

8a. DESIGNATION OF CONVENING AUTHORITY
 Convening Authority 10 USC §948h
 Appointed on 6 Feb 2007


8b. PLACE
 Arlington, VA

8c. DATE (YYYYMMDD)
 20081219

Referred for trial to the ~~(xxx)~~ capital military commission convened by military commission convening order _____
08-01 Dated 10 April 2008

_____ subject to the following instructions¹: This case is referred capital.
See R.M.C. 103(a)(3) and (4).

~~xxx~~ _____ ~~xxx~~ _____
Command, Order, or Direction

Susan J. Crawford
 Typed Name and Grade of Officer

 Signature

Convening Authority 10 USC §948h
 Official Capacity of Officer Signing

VII. SERVICE OF CHARGES

9. On _____, _____ I (caused to be) served a copy these charges on the above named accused.

Typed Name of Trial Counsel

Grade of Trial Counsel

Signature of Trial Counsel

FOOTNOTES

¹See R.M.C. 601 concerning instructions. If none, so state.

CONTINUATION SHEET - MC FORM 458 JAN 2007, Block II. Charges and Specifications in the case of UNITED STATES OF AMERICA v. 'ABD AL-RAHIM HUSSEIN MUHAMMED ABDU AL-NASHIRI a/k/a Amm Ahmad, Bilal; Mullah Bilal, 'Amr al-Harazi, 'Abd al-Rahim Husayn, Muhammad Omar Harazi, Muhammad Nashir al-Safani al-Harazi, Husayn Muhammad Abdu al-Nashir al-Safani al Harazi, Muhammad Umar al-Harazzi, Ahmad Ahmad Hassan Amin al-Aafani al-Harazi, Abdo Hussein, Abdul Muhammad Husayn, Abu Bilal al-Makki; Bilal al-Makki, Saeed Abdallah Qasem al-Mansouri, Said 'Abdullah Qasim al Mansuri, Said Abdallah Qasim al-Masuri, Abu al-Miqdad, Abdoh Hussein Mohammed, Abda Husayn Mohammed, Adil Ibn Shanani Ibn Muhammad al-Mu'abbadi, Abdul Rahim Nasheri, 'Abd al-Rahim Husayn Muhammad 'Abda Nashir; 'Abd al-Rahim Hussein Mohammed Abda al-Nashiri, Abd al-Raheem Hussein Mohammed Abdoh al-Nasiri, Muhammad Nashri, Said 'Abdullah Qasem, Saeed Abdallah Qasem, 'Abd al-Rahman, 'Abd al-Rahim, Abul al Rahman Hussein Mohammed al Safani, 'Abd al-Rahman Husayn Muhammad al-S'afani, Khalid al-Safani, Abdal-Rahimhussein Muhammad Abdu al-Shiri.

CHARGE I: VIOLATION OF 10 U.S.C. § 950v(b)(28), CONSPIRACY

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu AL-NASHIRI (a/k/a "Bilal" et. al; hereinafter Nashiri), a person subject to trial by military commission as an alien unlawful enemy combatant, did, from in or about 1996 through in or about 2002, in and around the Middle East, Arabian Peninsula, Yemen, Afghanistan, and other locations, conspire and agree with Usama Bin Laden, Mohammed Atef (a/k/a Abu Hafs al Masri), Saif al Adel, Mushin Musa Matwalli Atwah (a/k/a Abdul Rahman Al-Muhajir), Walid Muhammad Salih Mubarak Bin 'Attash (a/k/a Khallad), Jamal Ahmed Mohammed Ali al-Badawi, Fahd Mohammed Ahmed al-Quso, Wahib al-Khadher, Hassan Sa'id Awad al-Khamiri (a/k/a Hassan), Ibrahim al-Thawar (a/k/a Nibras), Taha Ibrahim Hussein al-Ahdal, Hadi Muhammad Salih al-Wirsh (a/k/a Hadi Dilkum), and other members and associates of the al Qaeda organization and its affiliated groups, known and unknown, to commit the following offenses triable by military commission: murder in violation of the law of war, treachery and perfidy, hijacking or hazarding a vessel or aircraft, destruction of property in violation of the law of war, intentionally causing serious bodily injury, attacking civilians, attacking civilian objects, and terrorism, the said Nashiri knew the unlawful purpose of the agreement, and joined willfully, that is with the intent to further the unlawful purpose; and in order to accomplish some objective or purpose of this agreement, Nashiri and his co-conspirators knowingly committed certain overt acts, including, but not limited to:

1. In or about 1996, Nashiri met Usama Bin Laden, and heard him speak of the coming war against the United States.
2. On or about August 23, 1996, Usama Bin Laden issued a public "Declaration of Jihad Against the Americans," in which he called for the murder of U.S. military personnel serving on the Arabian Peninsula.

3. In or about March, 1997, in an interview with CNN, Usama bin Laden promised to "drive Americans away from all Muslim countries," and warned the U.S. "to get out" if it did "not want to have its sons who are in the army killed." Usama bin Laden could "not guarantee" the "safety" of U.S. civilians since they were "not exonerated from responsibility" for U.S. foreign policy "because they chose the government and voted for it despite their knowledge of its crimes." He promised that if his demands were unmet, he would send the U.S. "messages with no words because" the U.S. President "does not know any words."
4. In or about February 1998, Usama Bin Laden, Ayman al Zawahiri, and others, under the banner of "International Islamic Front for Fighting Jews and Crusaders," issued a fatwa (purported religious ruling) requiring all Muslims able to do so to kill Americans -- whether civilian or military -- anywhere they can be found and to "plunder their wealth."
5. On or about May 29, 1998, Usama Bin Laden issued a statement entitled "Islamic Nuclear Bomb," under the banner of the "International Islamic Front for Fighting Jews and Crusaders," in which UBL stated that "it is the duty of the Muslims to prepare as much force as possible to terrorize the enemies of God."
6. In or about 1998, Nashiri joined al Qaeda.
7. In or about August 1999, Nashiri, using the name "Abda Hussein Mohammed" leased a residence with a courtyard in the Madinat al-Shab section of Aden Yemen.
8. In or about August 1999, Nashiri installed a gate to the yard of the Madinat Al-Shab property in order to move a boat in and out of the yard.
9. Between in or about September 1999 through November 1999 Nashiri delivered a white boat alongside the public road in front of the Shabwa gas station in Al Hudaydah Yemen and left it at that location for 10-15 days.
10. Between in or about September 1999 through November 1999 members of the conspiracy contracted with a truck driver for hire, to use his truck to transport a white boat from in front of the Shabwa gas station in Al Hudaydah to Aden Yemen.
11. Between in or about September 1999 through November 1999, members of the conspiracy delivered a white boat inside the courtyard of the Madinat Al Shab house.
12. In or about November 1999 Nashiri and Taher Hussein Tuhami traveled to the warehouse of the Daewood Company in Al Hudaydah Yemen and picked up a 200 Horsepower Yamaha outboard motor which Tuhami had purchased from the company.
13. In or about December 1999, Nashiri rented the second floor of a house in the Al Tawahi District of Aden with a view overlooking the Aden harbor.

14. On or about January 3, 2000, members of the conspiracy transported a bomb-laden boat from the Madinat Al-Shab location to the beach front at Aden harbor
15. On or about January 3, 2000, as the United States Ship (U.S.S.) THE SULLIVANS was refueling in Aden Harbor, Hassan Sa'id Awad al-Khamiri (a/k/a Khamri) and others known and unknown, launched from Al-Haswah beach area in Aden Harbor an explosives-laden attack boat, which sank shortly after launching.
16. On or about January 4, 2000, Nashiri and others known and unknown, traveled to the Al-Haswah beach area of Aden Harbor and salvaged the sunken boat and explosives.
17. Following the failed attack on the USS THE SULLIVANS, Nashiri, and others known and unknown returned to Afghanistan to meet with Usama Bin Laden and discuss reorganization of the plot.
18. Following his meeting with Usama Bin Laden, Nashiri returned to Aden, Yemen and was joined there by Khamri and Ibrahim Al-Thawar (a/k/a "Nibras") to continue the planning and preparation for a future attack on a United States naval vessel.
19. Throughout the Spring and Summer of 2000, Nashiri regularly spoke by telephone to Khallad who was in Pakistan who then traveled to Afghanistan to relay messages to Usama Bin Laden concerning the progress of the plot.
20. In the Summer of 2000, Nashiri asked Khallad to relay a message to Usama Bin Laden that the "boats operation" was nearly ready and that Bin Laden should send the "martyrs" to be used in the attack.
21. In or about the summer of 2000, Khamri leased a safehouse in the Al-Burayqat Kud Al-Namer area of Aden, Yemen.
22. In or about the summer of 2000, Khamri and Nashiri leased an apartment perched on the hills of the Al-Tawahi area of Aden, Yemen, overlooking Aden Harbor where the USS COLE would later be berthed for refueling.
23. In or about September 2000, in an interview with an Arabic-language television station, Usama Bin Laden called for a "jihad" to release the "brothers" in jail "everywhere."
24. In or about the spring and summer of 2000, Khallad and Nashiri met with Usama Bin Laden and others in or around Qandahar, Afghanistan.
25. In or about the summer and fall of 2000, Nashiri and Mushin Musa Matwalli Atwah (a/k/a Abdul Rahman Al-Muhajir), tested explosives at a camp used by al Qaeda near Qandahar, Afghanistan.

26. In or about the summer of 2000, at the Madinat ash Sha'b location, Nashiri and Khamri and others repaired the boat and engine that had sunk in January 2000.
27. In or about July or August 2000 Nashiri, Khamri and others brought a white boat to the shores of Aden Harbor near the Al Burayqah bridge where they launched the boat into the water and conducted a test run of the boat through the harbor.
28. In or about September and October 2000, Jamal Ahmed Mohammed Ali al-Badawi (Badawi), enlisted and trained Fahd Mohammed Ahmed al-Quso (Quso), to film the attack on the USS COLE from the Tawahi apartment.
29. In or about September or October 2000, Badawi provided a pager to Quso.
30. In or about September or October 2000, Badawi advised Quso that Quso would receive on the pager a predetermined code that would indicate an imminent attack on the USS COLE and signal Quso to depart for the Tawahi apartment and film the attack.
31. In or about the morning of October 12, 2000, Nibras, Khamri, and others known and unknown, caused a white boat, laden with explosives, including trinitrotoluene (TNT) and cyclotrimethylenetrinitramine (RDX), to be towed by a truck from the Al-Burayqat Kud Al-Namer location to Aden Harbor in Aden, Yemen.
32. At or about 11:00 on the morning of October 12, 2000, Quso departed his residence in Aden for the Tawahi apartment.
33. At or about 11:00 on the morning of October 12, 2000, Nibras and Khamri boarded the white boat at the beach front of Aden Harbor and launched in the direction of the USS COLE, which was then berthed for refueling in Aden Harbor.
34. At or about 11:22 on the morning of October 12, 2000, as the USS COLE was refueling in Aden Harbor, Nibras and Khamri piloted the bomb-laden boat alongside the USS COLE at midship, offered friendly gestures to several crew members, and detonated the explosives, ripping a hole in the side of the USS COLE approximately 40 feet in diameter, killing seventeen crew members, and wounding forty-seven other crew members. Nibras and Khamri died in the attack.
35. Shortly after the bombing of the USS COLE, Badawi contacted Quso and asked him to retrieve and conceal the truck and trailer used to tow the attack boat, and which had been left behind by Nibras and Khamri in the vicinity of Aden Harbor.
36. In or about mid-October 2000, Usama Bin Laden, Saif al Adel, and others known and unknown met in Qandahar, Afghanistan and discussed the attack on the USS COLE.
37. In or about April 2001, while at one of Usama Bin Laden's guesthouses in Qandahar, Afghanistan, Nashiri apprised a bodyguard of Usama Bin Laden of the details of the

attack on the USS COLE, identified the two suicide bombers as Nibras and Khamri, and indicated that Usama Bin Laden ordered the attack.

38. In or about the spring and summer of 2001, while at the al Farouq training camp in Afghanistan, Usama Bin Laden praised Nibras and Khamri for their successful suicide-murder mission against the USS COLE and exhorted the trainees at the camp to follow their example in future operations.
39. In or about the spring of 2001, Saif al Adel and others known and unknown, set out to produce an al Qaeda propaganda and recruitment video that included a re-enactment of the attack on the USS COLE.
40. In or about June 2001, Usama Bin Laden appeared in a video in which he praised the attack on the USS COLE.
41. Between in or about March 2001 and June 2002 Nashiri and others took steps to attack commercial shipping in the Straits of Hormuz or in the Gulf of Aden. Nashiri instructed others to purchase boats and navigational equipment with the intention of driving an explosive laden boat(s) into an oil tanker.
42. On or about October 6, 2002, in the Gulf of Aden, Yemen, a French supertanker *Limburg*, loaded with approximately 400,000 barrels of oil, was attacked by a bomb-laden boat, with the explosion resulting in: the death of a Bulgarian crew member; injury to twelve other crew members; and, approximately 90,000 barrels of oil spilled into the Gulf of Aden. Following the attack Al Qaeda and Usama Bin Laden acknowledged responsibility, and Al-Nashiri admitted he assisted with the plot.

CHARGE II: VIOLATION OF 10 U.S.C. § 950v(b)(15), MURDER IN VIOLATION OF THE LAW OF WAR

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, intentionally and unlawfully kill seventeen persons and members of the United States Armed Forces, in violation of the law of war, by causing two men dressed in civilian clothing and operating a civilian vessel laden with explosives to detonate said boat-bomb alongside the United States Ship (U.S.S.) COLE, with said bombing resulting in the deaths of seventeen U.S. sailors; to wit: Kenneth E. Clodfelter, HT3, USN; Richard Costelow, ETC, USN; Lakeina M. Francis, MSSN, USN; Timothy L. Gauna, ITSN, USN; Cherone L. Gunn, SMSN, USN; James R. McDaniels, ITSN, USN; Marc I. Nieto, EN2, USN; Ronald S. Owens, EW3, USN; Labika N. Palmer, SN, USN; Joshua L. Parlett, ENFA, USN; Patrick H. Roy, FN, USN; Kevin S. Rux, EW2, USN; Ronchester M. Santiago, MS3, USN; Timothy L. Saunders, OS2, USN; Gary G. Swenchonis, Jr., FN, USN; Andrew Triplett, ENS, USN; and, Craig B. Wibberley, SN, USN.

CHARGE III: VIOLATION OF 10 U.S.C. § 950v(b)(17), USING TREACHERY OR PERFDY

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, after inviting the confidence or belief of one or more persons aboard the United States Ship (U.S.S.) COLE, including but not limited to: [REDACTED], FN, USN; and, [REDACTED], GSFN, USN, that two men dressed in civilian clothing and operating a civilian vessel laden with explosives were entitled to protection under the law of war, and that the persons aboard the U.S.S. COLE were obliged to accord them protection under the law of war, and intending to betray that confidence or belief, did intentionally and unlawfully make use of that confidence and belief by causing the two men dressed in civilian clothing and operating a civilian vessel laden with explosives as an apparent garbage barge to detonate the said boat-bomb alongside the U.S.S. COLE, resulting in the deaths of seventeen, U.S. sailors of the United States Armed Forces, to wit: Kenneth E. Clodfelter, HT3, USN; Richard Costelow, ETC, USN; Lakeina M. Francis, MSSN, USN; Timothy L. Gauna, ITSN, USN; Cherone L. Gunn, SMSN, USN; James R. McDaniels, ITSN, USN; Marc I. Nieto, EN2, USN; Ronald S. Owens, EW3, USN; Labika N. Palmer, SN, USN; Joshua L. Parlett, ENFA, USN; Patrick H. Roy, FN, USN; Kevin S. Rux, EW2, USN; Ronchester M. Santiago, MS3, USN; Timothy L. Saunders, OS2, USN; Gary G. Swenchonis, Jr., FN, USN; Andrew Triplett, ENS, USN; and, Craig B. Wibberley, SN, USN; and injury to forty-seven U.S. sailors of the United States Armed Forces. ~~(See Charge Sheet Appendix A for a list of the forty seven injured sailors.)~~

S/C
12-19-08

CHARGE IV: VIOLATION OF 10 U.S.C. § 950v(b)(16), DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, intentionally and unlawfully destroy property of the United States Government and its people, in violation of the law of war, by causing two men dressed in civilian clothing and operating a civilian vessel laden with explosives to detonate said boat-bomb alongside the United States Ship (U.S.S.) COLE, with said bombing resulting in the destruction of U.S. property.

CHARGE V: VIOLATION OF 10 U.S.C. § 950v(b)(13), INTENTIONALLY CAUSING SERIOUS BODILY INJURY

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the

thirty-seven SJC 12-19-08

context of and associated with armed conflict, intentionally and with unlawful force or violence cause serious injury to the body or health of ~~forty-seven~~ ^{thirty-seven} persons and members of the United States Armed Forces, in violation of the law of war, by causing two men dressed in civilian clothing and operating a civilian vessel laden with explosives to detonate said boat-bomb alongside the United States Ship (U.S.S.) COLE, with said bombing resulting in the deaths of seventeen U.S. sailors and serious bodily injury to ~~forty-seven~~ ^{thirty-seven} U.S. sailors; to wit: the names of the dead and injured contained in the specifications of charges II and III are realleged and incorporated as if fully set forth herein for Charge V and its specification. (See Charge Sheet Appendix A for a list of persons that suffered serious bodily injury in the attack of the U.S.S. COLE). SJC 12-19-08

CHARGE VI: VIOLATION OF 10 U.S.C. § 950v(b)(24), TERRORISM

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, engage in an act that evinced a wanton disregard for human life, in a manner calculated to influence or affect the conduct of the United States government by intimidation or coercion, by causing two men dressed in civilian clothing and operating a civilian vessel laden with explosives, to detonate said boat-bomb alongside the United States Ship (U.S.S.) COLE, with said bombing resulting in the deaths of seventeen, and great bodily harm to forty-seven, U.S. sailors; to wit: the names of the dead and injured contained in the specifications of charges II and III are realleged and incorporated as if fully set forth herein for Charge VI and its specification.

CHARGE VII: VIOLATION OF 10 U.S.C. § 950v(b)(25), PROVIDING MATERIAL SUPPORT FOR TERRORISM

Specification 1: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, from in or about 1996 through in or about 2002, in and around the Middle East, Arabian Peninsula, Yemen, Afghanistan, and other locations, while in the context of and associated with armed conflict, provide material support or resources including, but not limited to, property, service, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, personnel, including Nashiri himself, to be used in preparation for, or in carrying out, an act of terrorism that Nashiri knew or intended that the material support or resources were to be used for those purposes.

The Government also hereby incorporates overt acts numbered 1, 6, 7, 8, 9, 12, 13, 16, 17, 18, 19, 20, 22, 24, 25, 26, 27, 37, 41, and 42 listed in Charge I, Specification 1, as material support and resources provided by 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri").

Specification 2: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, from in or about 1996 through in or about 2002, in and around the Middle East, Arabian Peninsula, Yemen, Afghanistan, and other locations, while in the context of and associated with armed conflict, provide material support or resources, including, but not limited to, property, service, financial services, lodging, training, expert advice and assistance, safehouses, false documentation or identification, personnel, including Nashiri himself, to an international terrorist organization engaged in hostilities against the United States, to wit: al Qaeda, with the intent to provide such material support or resources to al Qaeda, and knowing that al Qaeda has engaged or engages in terrorism.

The Government also hereby incorporates overt acts numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 listed in Charge I, Specification 1, as material support and resources provided by 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri").

CHARGE VIII: VIOLATION OF 10 U.S.C. § 950t, ATTEMPT TO COMMIT MURDER IN VIOLATION OF THE LAW OF WAR

Specification 1: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about January 3, 2000, while in the context of and associated with armed conflict, attempt to commit murder in violation of the law of war, by knowingly committing certain overt acts, including, but not limited to: renting a safehouse, buying a boat and explosives, assembling and launching a boat-bomb to explode alongside the United States Ship (U.S.S.) THE SULLIVANS, with the intent to kill the passengers aboard and around the ship including Commander E. Scott Hebner, USN, or other U.S. sailors or other persons around or aboard the USS THE SULLIVANS.

Specification 2: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, attempt to commit murder in violation of the law of war, by knowingly committing certain overt acts, including, but not limited to: renting a safehouse, buying a boat and explosives, assembling and launching a boat-bomb to explode alongside the United States Ship (U.S.S.) COLE, with the intent to kill, to wit: Commander Kirk S. Lippold, USN, or other U.S. sailors or other persons around or aboard the USS COLE.

APPENDIX A:

The names of persons that suffered serious bodily injury as a result of the attacks on the U.S.S. COLE

The following are persons, who suffered serious bodily injury and great bodily harm on October 12, 2000, in or around Aden, Yemen, as a result of the U.S.S. COLE being attacked, including but not limited to the listed injuries:

1. [REDACTED], DK3, USN, eardrum trauma;
2. [REDACTED], EW1, USN, eardrum trauma;
3. [REDACTED], IT1, USN, fractured bones;
4. [REDACTED], GSMC, USN, internal injuries, fractured bones, and lacerations;
5. [REDACTED], MS3, USN, fractured bones;
6. [REDACTED], ET3, USN, eardrum trauma;
7. [REDACTED], OSSN, USN; lacerations;
8. [REDACTED], SH2, USN, eardrum trauma;
9. [REDACTED], EW3, USN, amputation of left foot, fractured bones;
10. [REDACTED], FC2, USN, fractured bones;
11. [REDACTED], GMC, USN, burns and lacerations;
12. [REDACTED], FCCS, USN, fractured bones and eye injury;
13. [REDACTED], II, BM3, USN, fractured bones;
14. [REDACTED], BMC, USN, injury to knee;
15. [REDACTED], MS3, USN, fractured bones;
16. [REDACTED], FC2, USN, eardrum trauma;
17. [REDACTED], GSM1, USN, burns;
18. [REDACTED], GSCS, USN, fractured bones;
19. [REDACTED], SN, USN, eardrum trauma;
20. [REDACTED], GM3, USN, contusions;
21. [REDACTED], GSM2, USN, burns;
22. [REDACTED], SH3, USN, contusions;
23. [REDACTED], GSMFN, USN, lacerations and eye injury;
24. [REDACTED], GSMFN, USN, lacerations;
25. [REDACTED], SH3, USN, eardrum trauma;
26. [REDACTED], OS2, USN, eardrum trauma;
27. [REDACTED], PC2, USN, other injuries;
28. [REDACTED], HTFN, USN; internal injuries and fractured bones;
29. [REDACTED], SR, USN, lacerations;
30. [REDACTED], QMC, USN, lacerations;
31. [REDACTED], EMC, USN, internal injuries and fractured bones;
32. [REDACTED], SK2, USN, internal injuries and knee injury;
33. [REDACTED], FCI, USN, eardrum trauma;
34. [REDACTED], FCC, USN, concussion;
35. [REDACTED], FC3, USN, eardrum trauma;
36. [REDACTED], LT, USN, lacerations and contusions; and,
37. [REDACTED], Jr., OS1, USN, fractured bones and lacerations

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED:

'Abd al-Rahim Hussein Muhammed Abdu AL-NASHIRI

2. ALIASES OF ACCUSED:

SEE ATTACHED CONTINUATION SHEET. HEADNOTE OF CHARGES AND SPECIFICATIONS

3. ISN NUMBER OF ACCUSED (LAST FOUR):

010015

II. CHARGES AND SPECIFICATIONS

4. CHARGE: VIOLATION OF SECTION AND TITLE OF CRIME IN PART IV OF M.M.C.

SPECIFICATION:

SEE ATTACHED CONTINUATION SHEET OF BLOCK II. CHARGES AND SPECIFICATIONS

SJC
19 Dec. 108

III. SWEARING OF CHARGES

5a. NAME OF ACCUSER (LAST, FIRST, MI)

Groharing, Jeffrey D

5b. GRADE

Major

5c. ORGANIZATION OF ACCUSER

Office of Military Commissions

5d. SIGNATURE OF ACCUSER

Jeffrey D. Groharing

5e. DATE (YYYYMMDD)

20080630

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser the 30 day of June, 2008, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Michael A. Rizzotti

Typed Name of Officer

Office of Military Commissions

Organization of Officer

Captain, U.S. Army

Grade

Judge Advocate

*Official Capacity to Administer Oath
(See R.M.C. 307(b) must be commissioned officer)*

Michael A. Rizzotti
Signature

IV. NOTICE TO THE ACCUSED

6. On 9 July, 2008 the accused was notified of the charges against him/her (See R.M.C. 308).

Edward J. Regan, CAPT/O-6
 Typed Name and Grade of Person Who Caused
 Accused to Be Notified of Charges

Office of Military Commissions
 Organization of the Person Who Caused
 Accused to Be Notified of Charges


 Signature


V. RECEIPT OF CHARGES BY CONVENING AUTHORITY

7. The sworn charges were received at 0800 hours, on 15 Sep 2008 at Arlington, Virginia

Location

For the Convening Authority: Donna L. Wilkins
 Typed Name of Officer

GS-15
 Grade


 Signature

VI. REFERRAL

8a. DESIGNATION OF CONVENING AUTHORITY

Convening Authority 10 USC §948h
 Appointed on 6 Feb 2007

8b. PLACE

Arlington, VA

8c. DATE (YYYYMMDD)

20081219

Referred for trial to the (non)capital military commission convened by military commission convening order _____

The Charges and specifications are dismissed.

~~subject to the following instructions:~~ _____

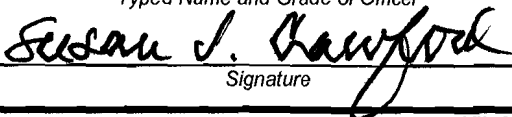
~~XX~~

~~XX~~

Command, Order, or Direction

Susan J. Crawford
 Typed Name and Grade of Officer

Convening Authority 10 USC §948h
 Official Capacity of Officer Signing


 Signature

VII. SERVICE OF CHARGES

9. On _____, _____ I (caused to be) served a copy these charges on the above named accused.

Typed Name of Trial Counsel

Grade of Trial Counsel

Signature of Trial Counsel

FOOTNOTES

¹See R.M.C. 601 concerning instructions. If none, so state.

~~CONTINUATION SHEET - MC FORM 458 JAN 2007, Block II. Charges and Specifications in the case of UNITED STATES OF AMERICA v. 'ABD AL-RAHIM HUSSEIN MUHAMMED ABDU AL-NASHIRI a/k/a Bilal; Mullah Bilal; Abu Bilal al-Makki; Khalid al-Safani; 'Amr al-Harazi; Amm Ahmad; Abdul Rahim Nasheri; 'Abd al-Rahim Musayn Muhammad 'Abda Nashir; 'Abd al-Rahim Hussein Mohammed al-Nashiri; Adil Ibn Shanan Ibn Muhammad al-Mu'abbadi; Saeed Abdallah Qasem Al-Mansouri; Mahyoub Qaed Saeed al-Qabati; Abu al-Miqdad, Abdoh Hussein Mohammed, Abd al-Raheem Hussein Mohammed Abdoh al-Nasiri, Saeed Abdallah Qasem al-Mansouri, 'Abd al-Rahim Husayn, Muhammad Nashir al-Safani al-Harazi, Abdul Muhammad Husayn, Muhammad Nashri, Muhammad Omar Harazi, Bilal al-Makki, Husayn Muhammad Abdu al-Nashir al-Safani al Harazi, Said Abdallah Qasim al-Masuri, Abdal-Rahimhussein Muhammad Abdu al-Shiri, Muhammad Umar al-Harazzi, Ahmad Ahmad Hassan Amin al-Aafani al-Harazi, Abu Jaffar~~

CHARGE I: VIOLATION OF 10 U.S.C. § 950v(b)(28), CONSPIRACY

Specification 1: In that 'Abd al-Rahim Hussein Muhammed Abdu AL-NASHIRI (a/k/a "Bilal" et. al; hereinafter Nashiri), a person subject to trial by military commission as an alien unlawful enemy combatant, did, from in or about 1996 through in or about 2002, in and around the Middle East, Arabian Peninsula, Yemen, Afghanistan, and other locations, conspire and agree with Usama Bin Laden, Ayman al Zawahiri, Mohammed Atef (a/k/a Abu Hafs al Masri), Saif al Adel, Mushin Musa Matwalli Atwah (a/k/a Abdul Rahman Al-Muhajir), Walid Muhammad Salih Mubarak Bin 'Attash (a/k/a Khallad), Jamal Ahmed Mohammed Ali al-Badawi, Fahd Mohammed Ahmed al-Quso, Wahib al-Khadher, Hassan Sa'id Awad al-Khamiri (a/k/a Hassan), Ibrahim al-Thawar (a/k/a Nibras), Taha Ibrahim Hussein al-Ahdal, Hadi Muhammad Salih al-Wirsh (a/k/a Hadi Dilkum), and other members and associates of the al Qaeda organization and its affiliated groups, known and unknown, to commit the following offenses triable by military commission: murder in violation of the law of war, treachery and perfidy, hijacking or hazarding a vessel or aircraft, destruction of property in violation of the law of war, intentionally causing serious bodily injury, attacking civilians, attacking civilian objects, and terrorism, the said Nashiri knew the unlawful purpose of the agreement, and in order to accomplish some objective or purpose of this agreement, Nashiri and his co-conspirators knowingly committed certain overt acts, including, but not limited to:

1. In or about 1996, Nashiri met Usama Bin Laden, and heard him speak of the coming war against the United States. Approximately two years prior, Nashiri returned from fighting in Tajikistan and met Usama Bin Laden for the first time in Jalalabad, Afghanistan where Nashiri and Khallad stayed for about one week at an al Qaeda guesthouse.
2. On or about August 23, 1996, Usama Bin Laden issued a public "Declaration of Jihad Against the Americans," in which he called for the murder of U.S. military personnel serving on the Arabian Peninsula.
3. In or about March, 1997, in an interview with CNN, Usama bin Laden promised to "drive Americans away from all Muslim countries," and warned the U.S. "to get out" if it did ~~"not want to have its sons who are in the army killed."~~ Usama bin Laden

could "not guarantee" the "safety" of U.S. civilians since they were "not exonerated from responsibility" for U.S. foreign policy "because they chose the government and voted for it despite their knowledge of its crimes." He promised that if his demands were unmet, he would send the U.S. "messages with no words because" the U.S. President "does not know any words."

4. In or about February 1998, Usama Bin Laden, Ayman al Zawahiri, and others, under the banner of "International Islamic Front for Fighting Jews and Crusaders," issued a fatwa (purported religious ruling) requiring all Muslims able to do so to kill Americans -- whether civilian or military -- anywhere they can be found and to "plunder their wealth."
5. On or about May 29, 1998, Usama Bin Laden issued a statement entitled "Islamic Nuclear Bomb," under the banner of the "International Islamic Front for Fighting Jews and Crusaders," in which UBL stated that "it is the duty of the Muslims to prepare as much force as possible to terrorize the enemies of God."
6. In or about 1998, Nashiri joined al Qaeda.
7. In or about August 1999, Nashiri, using the name "Abda Hussein Mohammed" leased a residence with a courtyard in the Madinat al-Shab section of Aden Yemen
8. In or about August 1999, Nashiri installed a gate to the yard of the Madinat Al-Shab property in order to move a boat in and out of the yard.
9. Between in or about September 1999 through November 1999 Nashiri delivered a white boat alongside the public road in front of the Shabwa gas station in Al Hudaydah Yemen and left it at that location for 10-15 days.
10. Between in or about September 1999 through November 1999 members of the conspiracy contracted with a truck driver for hire, to use his truck to transport a white boat from in front of the Shabwa gas station in Al Hudaydah to Aden Yemen.
11. Between in or about September 1999 through November 1999, members of the conspiracy delivered a white boat inside the courtyard of the Madinat Al Shab house.
12. In or about November 1999 Nashiri and Taher Hussein Tuhami traveled to the warehouse of the Daewood Company in Al Hudaydah Yemen and picked up a 200 Horsepower Yamaha outboard motor which Tuhami had purchased from the company.
13. In or about December 1999, Nashiri rented the second floor of a house in the Al Tawahi District of Aden with a view overlooking the Aden harbor.
14. On or about January 3, 2000, members of the conspiracy transported a bomb-laden boat from the Madinat Al Shab location to the beach front at Aden harbor

- ~~15. On or about January 3, 2000, as the United States Ship (U.S.S.) THE SULLIVANS was refueling in Aden Harbor, Hassan Sa'id Awad al-Khamiri (a/k/a Khamri) and others known and unknown, launched from Al-Haswah beach area in Aden Harbor an explosives-laden attack boat, which sank shortly after launching.~~
16. On or about January 4, 2000, Nashiri and others known and unknown, traveled to the Al-Haswah beach area of Aden Harbor and salvaged the sunken boat and explosives.
17. Following the failed attack on the USS THE SULLIVANS, Nashiri and others known and unknown returned to Afghanistan to meet with Usama Bin Laden and discuss reorganization of the plot.
18. Following his meeting with Usama Bin Laden, Nashiri returned to Aden, Yemen and was joined there by Khamri and Ibrahim Al-Thawar (a/k/a "Nibras") to continue the planning and preparation for a future attack on a United States naval vessel.
19. Throughout the Spring and Summer of 2000, Nashiri regularly spoke by telephone to Khallad who was in Pakistan who then traveled to Afghanistan to relay messages to Usama Bin Laden concerning the progress of the plot.
20. In the Summer of 2000, Nashiri asked Khallad to relay a message to Usama Bin Laden that the "boats operation" was nearly ready and that Bin Laden should send the "martyrs" to be used in the attack.
21. In or about the summer of 2000, Khamri leased a safehouse in the Al-Burayqat Kud Al-Namer area of Aden, Yemen.
22. In or about the summer of 2000, Khamri and Nashiri leased an apartment perched on the hills of the Al-Tawahi area of Aden, Yemen, overlooking Aden Harbor where the USS COLE would later be berthed for refueling.
23. In or about September 2000, in an interview with an Arabic-language television station, Usama Bin Laden called for a "jihad" to release the "brothers" in jail "everywhere."
24. In or about the spring and summer of 2000, Khallad and Nashiri met with Usama Bin Laden and others in or around Qandahar, Afghanistan.
25. In or about the summer and fall of 2000, Nashiri and Mushin Musa Matwalli Atwah (a/k/a Abdul Rahman Al-Muhajir), tested explosives at a camp used by al Qaeda near Qandahar, Afghanistan.
- ~~26. In or about the summer of 2000, at the Madinat ash Sha'b location, Nashiri and Khamri and others repaired the boat and engine that had sunk in January 2000.~~

- ~~27. In or about July or August 2000 Nashiri, Khamri and others brought a white boat to the shores of Aden Harbor near the Al Burayqah bridge where they launched the boat into the water and conducted a test run of the boat through the harbor.~~
28. In or about September and October 2000, Jamal Ahmed Mohammed Ali al-Badawi (Badawi), enlisted and trained Fahd Mohammed Ahmed al-Quso (Quso), to film the attack on the USS COLE from the Tawahi apartment.
29. In or about September or October 2000, Badawi provided a pager to Quso.
30. In or about September or October 2000, Badawi advised Quso that Quso would receive on the pager a predetermined code that would indicate an imminent attack on the USS COLE and signal Quso to depart for the Tawahi apartment and film the attack.
31. In or about the morning of October 12, 2000, Nibras, Khamri, and others known and unknown, caused a white boat, laden with explosives, including trinitrotoluene (TNT) and cyclotrimethylenetrinitramine (RDX), to be towed by a truck from the Al-Burayqat Kud Al-Namer location to Aden Harbor in Aden, Yemen.
32. At or about 11:00 on the morning of October 12, 2000, Quso departed his residence in Aden for the Tawahi apartment.
33. At or about 11:00 on the morning of October 12, 2000, Nibras and Khamri boarded the white boat at the beach front of Aden Harbor and launched in the direction of the USS COLE, which was then berthed for refueling in Aden Harbor.
34. At or about 11:22 on the morning of October 12, 2000, as the USS COLE was refueling in Aden Harbor, Nibras and Khamri piloted the bomb-laden boat alongside the USS COLE at midship, offered friendly gestures to several crew members, and detonated the explosives, ripping a hole in the side of the USS COLE approximately 40 feet in diameter, killing seventeen crew members, and wounding forty-seven other crew members. Nibras and Khamri died in the attack.
35. Shortly after the bombing of the USS COLE, Badawi contacted Quso and asked him to retrieve and conceal the truck and trailer used to tow the attack boat, and which had been left behind by Nibras and Khamri in the vicinity of Aden Harbor.
36. In or about mid-October 2000, Usama Bin Laden, Saif al Adel, and others known and unknown met in Qandahar, Afghanistan and discussed the attack on the USS COLE.
37. In or about April 2001, while at one of Usama Bin Laden's guesthouses in Qandahar, Afghanistan, Nashiri apprised a bodyguard of Usama Bin Laden of the details of the attack on the USS COLE, identified the two suicide bombers as Nibras and Khamri, and indicated that Usama Bin Laden ordered the attack.

- ~~38. In or about the spring and summer of 2001, while at the al-Farouq training camp in Afghanistan, Usama Bin Laden praised Nibras and Khamri for their successful suicide-murder mission against the USS COLE and exhorted the trainees at the camp to follow their example in future operations.~~
39. In or about the spring of 2001, Saif al Adel and others known and unknown, set out to produce an al Qaeda propaganda and recruitment video that included a re-enactment of the attack on the USS COLE.
40. In or about June 2001, Usama Bin Laden appeared in a video in which he praised the attack on the USS COLE.
41. Between in or about March 2001 and June 2002 Nashiri and others took steps to attack commercial shipping in the Straits of Hormuz or in the Gulf of Aden. Nashiri instructed others to purchase boats and navigational equipment with the intention of driving an explosive laden boat(s) into an oil tanker.
42. On or about October 6, 2002, in the Gulf of Aden, Yemen, a French supertanker *Limburg*, loaded with approximately 400,000 barrels of oil, was attacked by a bomb-laden boat, with the explosion resulting in: the death of a Bulgarian crew member; injury to twelve other crew members; and, approximately 90,000 barrels of oil spilled into the Gulf of Aden. Following the attack Al Qaeda and Usama Bin Laden acknowledged responsibility, and Al-Nashiri admitted he assisted with the plot.

Specification 2: In that 'Abd al-Rahim Hussein Muhammed Abdu AL-NASHIRI (a/k/a "Bilal" et. al; hereinafter Nashiri), a person subject to trial by military commission as an alien unlawful enemy combatant, did, from in or about 1996 through in or about 2002, in and around the Middle East, Arabian Peninsula, Yemen, Afghanistan, and other locations, join an enterprise of persons including but not limited to Usama Bin Laden, Ayman al Zawahiri, Mohammed Atef (a/k/a Abu Hafs al Masri), Saif al Adel, Mushin Musa Matwalli Atwah (a/k/a Abdul Rahman Al-Muhajir), Walid Muhammad Salih Mubarak Bin 'Attash (a/k/a Khallad), Jamal Ahmed Mohammed Ali al-Badawi, Fahd Mohammed Ahmed al-Quso, Wahib al-Khadher, Hassan Sa'id Awad al-Khamiri (a/k/a Hassan), Ibrahim al-Thawar (a/k/a Nibras), Taha Ibrahim Hussein al-Ahdal, Hadi Muhammad Salih al-Wirsh (a/k/a Hadi Dilkum), and other members and associates of the al Qaeda organization and its affiliated groups, known and unknown, with said enterprise of persons sharing a common criminal purpose to commit the following offenses triable by military commission: murder in violation of the law of war, treachery and perfidy, hijacking or hazarding a vessel or aircraft, destruction of property in violation of the law of war, intentionally causing serious bodily injury, attacking civilians, attacking civilian objects, and terrorism, the said Nashiri knew the unlawful purpose of the common criminal enterprise and joined willfully, that is with the intent to further the unlawful purpose of the enterprise and in order to accomplish some objective or purpose of the enterprise Nashiri and his co-conspirators knowingly committed certain overt acts, including, but not limited to

~~The Government hereby incorporates overt acts numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 listed in Charge I, Specification 1, as the overt acts committed by 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri) and his co-conspirators in order to accomplish some objective or purpose of the enterprise.~~

CHARGE II: VIOLATION OF 10 U.S.C. § 950v(b)(15), MURDER IN VIOLATION OF THE LAW OF WAR

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, intentionally and unlawfully kill seventeen persons and members of the United States Armed Forces, in violation of the law of war, by causing two men dressed in civilian clothing and operating a civilian vessel laden with explosives and detonating said boat-bomb alongside the United States Ship (U.S.S.) COLE, with said bombing resulting in the deaths of seventeen U.S. sailors, to wit: Kenneth E. Clodfelter, HT3, USN; Richard Costelow, ETC, USN; Lakeina M. Francis, MSSN, USN; Timothy L. Gauna, ITSN, USN; Cherone L. Gunn, SMSN, USN; James R. McDaniels, ITSN, USN; Marc I. Nieto, EN2, USN; Ronald S. Owens, EW3, USN; Labika N. Palmer, SN, USN; Joshua L. Parlett, ENFA, USN; Patrick H. Roy, FN, USN; Kevin S. Rux, EW2, USN; Ronchester M. Santiago, MS3, USN; Timothy L. Saunders, OS2, USN; Gary G. Swenchonis, Jr., FN, USN; Andrew Triplett, ENS, USN; and, Craig B. Wibberley, SN, USN.

CHARGE III: VIOLATION OF 10 U.S.C. § 950v(b)(17), USING TREACHERY OR PERFDY

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, after inviting the confidence or belief of one or more persons aboard the United States Ship (U.S.S.) COLE, including but not limited to: [REDACTED], FN, USN; and, [REDACTED], GSFN, USN, that two men dressed in civilian clothing and operating a civilian vessel laden with explosives were entitled to protection under the law of war, and that the persons aboard the U.S.S. COLE were obliged to accord them protection under the law of war, and intending to betray that confidence or belief, did intentionally and unlawfully make use of that confidence and belief by causing the two men dressed in civilian clothing and operating a civilian vessel laden with explosives as an apparent garbage barge to detonate the said boat-bomb alongside the U.S.S. COLE, resulting in the deaths of seventeen, U.S. sailors of the United States Armed Forces, to wit: Kenneth E. Clodfelter, HT3, USN; Richard Costelow, ETC, USN; Lakeina M. Francis, MSSN, USN; Timothy L. Gauna, ITSN, USN; Cherone L. Gunn, SMSN, USN; James R. McDaniels, ITSN, USN; Marc I. Nieto, EN2, USN; Ronald S. Owens, EW3, USN; Labika N. Palmer, SN, USN; Joshua L. Parlett, ENFA, USN; Patrick H. Roy, FN, USN; Kevin S. Rux, EW2, USN;

~~Ronchester M. Santiago, MS3, USN; Timothy L. Saunders, OS2, USN; Gary G. Swenchonis, Jr., FN, USN; Andrew Triplett, ENS, USN; and, Craig B. Wibberley, SN, USN; and injury to forty-seven U.S. sailors of the United States Armed Forces. (See Charge Sheet Appendix A for a list of the forty-seven injured sailors.)~~

CHARGE IV: VIOLATION OF 10 U.S.C. § 950v(b)(16), DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, intentionally and unlawfully destroy property of the United States Government and its people, in violation of the law of war, by causing two men dressed in civilian clothing and operating a civilian vessel laden with explosives and said boat-bomb detonating alongside the United States Ship (U.S.S.) COLE, with said bombing resulting in the destruction of U.S. property.

CHARGE V: VIOLATION OF 10 U.S.C. § 950v(b)(13), INTENTIONALLY CAUSING SERIOUS BODILY INJURY

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, intentionally and with unlawful force or violence cause serious injury to the body or health of forty-seven persons and members of the United States Armed Forces, in violation of the law of war, by causing two men dressed in civilian clothing and operating a civilian vessel laden with explosives and said boat-bomb detonating alongside the United States Ship (U.S.S.) COLE, with said bombing resulting in the deaths of seventeen U.S. sailors and serious bodily injury to forty-seven U.S. sailors; to wit: the names of the dead and injured contained in the specifications of charges II and III are realleged and incorporated as if fully set forth herein for Charge V and its specification. (See Charge Sheet Appendix A for a list of persons that suffered serious bodily injury in the attack of the U.S.S. COLE).

CHARGE VI: VIOLATION OF 10 U.S.C. § 950v(b)(24), TERRORISM

Specification: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, engage in an act that evinced a wanton disregard for human life, in a manner calculated to influence or affect the conduct of the United States government by intimidation or coercion, by causing two men dressed in civilian clothing and ~~operating a civilian vessel laden with explosives, and said boat bomb detonating alongside the~~

~~United States Ship (U.S.S.) COLE, with said bombing resulting in the deaths of seventeen, and great bodily harm to forty-seven, U.S. sailors; to wit: the names of the dead and injured contained in the specifications of charges II and III are realleged and incorporated as if fully set forth herein for Charge VI and its specification.~~

CHARGE VII: VIOLATION OF 10 U.S.C. § 950v(b)(25), PROVIDING MATERIAL SUPPORT FOR TERRORISM

Specification 1: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, from in or about 1996 through in or about 2002, in and around the Middle East, Arabian Peninsula, Yemen, Afghanistan, and other locations, while in the context of and associated with armed conflict, provide material support or resources including, but not limited to, property, service, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, personnel, including Nashiri himself, to be used in preparation for, or in carrying out, an act of terrorism that Nashiri knew or intended that the material support or resources were to be used for those purposes.

The Government also hereby incorporates overt acts numbered 1, 6, 7, 8, 9, 12, 13, 16, 17, 18, 19, 20, 22, 24, 25, 26, 27, 37, 41, and 42 listed in Charge I, Specification 1, as material support and resources provided by 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri").

Specification 2: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, from in or about 1996 through in or about 2002, in and around the Middle East, Arabian Peninsula, Yemen, Afghanistan, and other locations, while in the context of and associated with armed conflict, provide material support or resources, including, but not limited to, property, service, financial services, lodging, training, expert advice and assistance, safehouses, false documentation or identification, personnel, including Nashiri himself, to an international terrorist organization engaged in hostilities against the United States, to wit: al Qaeda, with the intent to provide such material support or resources to al Qaeda, and knowing that al Qaeda has engaged or engages in terrorism.

The Government also hereby incorporates overt acts numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 listed in Charge I, Specification 1, as material support and resources provided by 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri").

~~CHARGE VIII. VIOLATION OF 10 U.S.C. § 950t, ATTEMPT TO COMMIT MURDER IN VIOLATION OF THE LAW OF WAR~~

Specification 1: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about January 3, 2000, while in the context of and associated with armed conflict, attempt to commit murder in violation of the law of war, by knowingly committing certain overt acts, including, but not limited to: renting a safehouse, buying a boat and explosives, assembling and launching a boat-bomb to explode alongside the United States Ship (U.S.S.) THE SULLIVANS, with the intent to kill the passengers aboard and around the ship including Commander E. Scott Hebrer, USN, or other U.S. sailors or other persons around or aboard the USS THE SULLIVANS.

Specification 2: In that 'Abd al-Rahim Hussein Muhammed Abdu al-Nashiri (a/k/a "Bilal" et. al; hereinafter "Nashiri"), a person subject to trial by military commission as an alien unlawful enemy combatant, did, in or around Aden, Yemen, on or about October 12, 2000, while in the context of and associated with armed conflict, attempt to commit murder in violation of the law of war, by knowingly committing certain overt acts, including, but not limited to: renting a safehouse, buying a boat and explosives, assembling and launching a boat-bomb to explode alongside the United States Ship (U.S.S.) COLE, with the intent to kill, to wit: Commander Kirk S. Lippold, USN, or other U.S. sailors or other persons around or aboard the USS COLE.

SVC
12-19-08

APPENDIX A:

The names of persons that suffered serious bodily injury as a result of the attacks on the U.S.S. COLE

The following are persons who suffered serious bodily injury and great bodily harm on October 12, 2000, in or around Aden, Yemen, as a result of the U.S.S. COLE being attacked, including but not limited to the listed injuries:

1. [REDACTED], DK3, USN, eardrum trauma;
2. [REDACTED], EW1, USN, eardrum trauma;
3. [REDACTED], DK2, USN, other injuries;
4. [REDACTED], OSSN, USN, other injuries;
5. [REDACTED], Jr., IT1, USN, fractured bones;
6. [REDACTED], FN, USN, other injuries;
7. [REDACTED], GSMC, USN, internal injuries, fractured bones, and lacerations;
8. [REDACTED], MS3, USN, fractured bones;
9. [REDACTED], GSEFN, USN, other injuries;
10. [REDACTED], ET3, USN, eardrum trauma;
11. [REDACTED], OSSN, USN; lacerations;
12. [REDACTED], SH2, USN, eardrum trauma;
13. [REDACTED], EW3, USN, amputation of left foot, fractured bones;
14. [REDACTED], FC2, USN, fractured bones;
15. [REDACTED], GMC, USN, burns and lacerations;
16. [REDACTED], FC3, USN, contusions;
17. [REDACTED], FCCS, USN, fractured bones and eye injury;
18. [REDACTED], II, BM3, USN, fractured bones;
19. [REDACTED], BMC, USN, injury to knee;
20. [REDACTED], MS3, USN, fractured bones;
21. [REDACTED], FC2, USN, eardrum trauma;
22. [REDACTED], GSM1, USN, burns;
23. [REDACTED], GSCS, USN, fractured bones;
24. [REDACTED], SN, USN, eardrum trauma;
25. [REDACTED], GM3, USN, contusions;
26. [REDACTED], GSM2, USN, burns;
27. [REDACTED], SH3, USN, contusions;
28. [REDACTED], GSMFN, USN, lacerations and eye injury;
29. [REDACTED], GSE3, USN, lacerations;
30. [REDACTED], GSMFN, USN, lacerations;
31. [REDACTED], ENFN, USN, other injuries;
32. [REDACTED], DCFN, USN, contusions and ankle injury;
33. [REDACTED], SH3, USN, eardrum trauma;
34. [REDACTED], OS2, USN, eardrum trauma;
35. [REDACTED], QMC, USN, lacerations;
36. [REDACTED], PC2, USN, other injuries;
37. [REDACTED], USN, other injuries;
38. [REDACTED], HTFN, USN, internal injuries and fractured bones;

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- 39. [REDACTED], SR, USN, lacerations;
- 40. [REDACTED], EMC, USN, internal injuries and fractured bones;
- 41. [REDACTED], SK2, USN, internal injuries and knee injury;
- 42. [REDACTED], SN, USN, other injuries;
- 43. [REDACTED], FC1, USN, eardrum trauma;
- 44. [REDACTED], FCC, USN, concussion;
- 45. [REDACTED], FC3, USN, eardrum trauma;
- 46. [REDACTED], LT, USN, lacerations and contusions; and,
- 47. [REDACTED], Jr., OS1, USN, fractured bones and lacerations.

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