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1 [The R.M.C. 803 session was called to order at 0902,
2 18 October 2016.]

3 MJ [Col SPATH]: The commission is called to order. All
4 of the parties who were present yesterday before we recessed
5 for the evening are again present. Good morning, everybody.

6 In the record, we've now got 332TT. That's the
7 warrant of attachment I signed last night.

8 LDC [MR. KAMMEN]: May I ask a question?

9 MJ [Col SPATH]: You may.

10 LDC [MR. KAMMEN]: And I don't care. I mean, I just -- if
11 he doesn't testify tomorrow, is he going to be like held in
12 jail for three months?

13 MJ [Col SPATH]: Mr. Kammen, I doubt that. But you know
14 what I am not involved in? I am not involved in how this is
15 dealt with. I mean, he was supposed to be here. This is a
16 normal process in any court system. I don't know. I don't
17 know.

18 If I were him, I would reach out to the prosecution
19 and make whatever arrangements I could to comply with a court
20 order that he already had in his hand with money, or -- I
21 don't know what will happen.

22 LDC [MR. KAMMEN]: I mean, I agree. I was just trying
23 to ----

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1 MJ [Col SPATH]: I understand. Our next date is in
2 December.

3 LDC [MR. KAMMEN]: As a defense witness, I would rather he
4 not be sitting in jail for two months.

5 MJ [Col SPATH]: And I don't think the government -- if I
6 were to guess, the prosecution doesn't have that desire
7 either. Our desire is to get his testimony on the record. So
8 that's where we're at.

9 Let's pick up and deal with the argument on the
10 Dalmazzi issue, I think that was the one we were going to take
11 up first. For everybody watching, it's Appellate Exhibit 357.
12 It's a motion to abate pending the resolution of the United
13 States v. Dalmazzi, which is at the Court of Appeals for the
14 Armed Forces.

15 Defense counsel.

16 DDC [LCDR POLLIO]: Sir.

17 MJ [Col SPATH]: You may proceed.

18 DDC [LCDR POLLIO]: Good morning, sir.

19 MJ [Col SPATH]: Good morning.

20 DDC [LCDR POLLIO]: At this point, as the defense raises
21 in AE 357, it would be premature for this court to hear any
22 argument on motions impacted by the C.M.C.R. decisions when
23 there is an open question as to the structural validity of

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1 that court and the judges that were appointed to it. In our
2 motion, we noted that this court had previously decided that
3 the two governments, interlocutory appeals up before the
4 C.M.C.R. required an abatement or a stay of proceedings in
5 this hearing. And we would argue that with those open
6 questions surrounding the C.M.C.R. and the validity of the two
7 decisions that impact the interlocutory appeals that the
8 government chose to seek, we are back again where we once were
9 and that we should be having a stay of any proceedings.

10 MJ [Col SPATH]: Well, the C.M.C.R. lifted the stay,
11 didn't they?

12 DDC [LCDR POLLIO]: Excuse me, sir?

13 MJ [Col SPATH]: The C.M.C.R. has already lifted the stay,
14 correct? The stay has been lifted on us.

15 DDC [LCDR POLLIO]: Sir, the C.M.C.R. lifted the stay, and
16 the stay in this commission was pending the C.M.C.R.'s
17 decisions on those two interlocutory appeals ----

18 MJ [Col SPATH]: And they made those decisions.

19 DDC [LCDR POLLIO]: ---- and the fact -- yes, sir.
20 They've made decisions, but the validity of those decisions
21 remain in question. There is an open question now that is
22 being heard between C.A.A.F., whether or not two of the three
23 judges that authored the opinions on those interlocutory

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1 appeals were even military officers, whether they are properly
2 appointed to this court.

3 And I think it's very important to follow the entire
4 procedural history of this case and why there was a stay not
5 only in the C.M.C.R. but a stay within this commission. And
6 this all started with an initial government interlocutory
7 appeal that was on 19 September of 2014 when the government
8 decided to appeal the decision of this commission to dismiss
9 all of the Limburg charges. Shortly thereafter, the C.M.C.R.
10 appointed a panel of three judges to hear that appeal. And
11 two of those were military officers that had been appointed
12 under various -- excuse me, they had been assigned to the
13 C.M.C.R., and there had been one civilian judge that was
14 appointed.

15 Now, Nashiri challenged that within -- with the
16 C.M.C.R., which, as is the norm in that court, summarily
17 denied the challenge. But the district court gave pause to
18 this issue and, on the eve of the oral argument, stayed the
19 C.M.C.R. so that it could look at the appointments issue of
20 these judges.

21 On 27 March of 2014, while this open question is
22 pending, while the C.M.C.R. has been stayed, the government
23 then chose to file a second interlocutory appeal which related

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1 to the Cole charges and -- knowing that this tactic had
2 consequences. The D.C. Circuit Court ultimately decided that
3 Nashiri was not entitled to mandamus relief because it wasn't
4 clear, although nothing in the system can be clear, and -- but
5 it did note the importance of the issue and suggested that the
6 government fix the issue.

7 The government chose to then nominate and appoint
8 military officers to the C.M.C.R. under a provision that was
9 intended to appoint civilian officers to the court. When
10 Nashiri raised this issue once again with the C.M.C.R., the
11 C.M.C.R. not only denied Nashiri's motion for those judges
12 that had a personal interest to recuse themselves, but they,
13 of course, dismissed and outright rejected the claim in a
14 summary disposition.

15 What happened simultaneously and what is important is
16 that each and every service court, every single military
17 service branch, Army, Navy -- excuse me, Army, Navy, and
18 Marines Corps and Air Force, also noted what had happened, and
19 they noted that these military officers, who had now been
20 nominated by the President and confirmed by the Senate to a
21 position as a principal officer on a court, an Article I
22 court, were still sitting as military officers on the service
23 appellate courts. And each and every appellate defense

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1 organization raised this challenge.

2 Now, the service -- intermediary courts all rejected
3 those claims. Notably, however, when the first case was
4 dismissed and made it's way up to C.A.A.F., which is the --
5 you know, the final for the -- those in the audience that
6 aren't familiar with C.A.A.F., the final military, I guess the
7 Marines -- excuse me, the military supreme court for military
8 law, C.A.A.F. granted cert on this issue in an extraordinarily
9 fast manner, in 17 days. And not only did C.A.A.F. grant cert
10 on this issue, it then invited every single service TJAG, the
11 head JAG officer for every service branch, to weigh in on this
12 important matter. Because these military judges that are part
13 of their organizations have now been reached out, without
14 perhaps their input, and appointed as a principal officer in
15 contravention of other statutes that say a military officer
16 cannot serve as a principal officer without an express
17 legislative approval or exception, which there is none in this
18 case.

19 And it's important to note that not only did C.A.A.F.
20 grant cert in Dalmazzi, but in the time since this brief was
21 filed and in the past, even as recently as last week, C.A.A.F.
22 has decided to grant cert on a number of trailer cases that
23 all relate to this issue. And the importance of this issue

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1 cannot be understated. It impacts the entire military justice
2 system. Because of the haphazard manner in which the C.M.C.R.
3 judges were appointed, there is now an open question as to the
4 validity of the service appellate courts and the military
5 justice system.

6 And the reality is that these proceedings should be
7 abated until C.A.A.F., a court -- an Article I court with a
8 unique role, military structure, history, they have the
9 authority to make this determination. And it isn't until
10 C.A.A.F. decides this issue that we should continue in this
11 case. It will avoid needless duplication of efforts, it will
12 ensure the efficiency of justice. And it relates back to
13 R.M.C. 908(b)(4), which states that when there's an
14 interlocutory appeal or matter pending, then we shouldn't be
15 having hearings and sessions on matters that are going to be
16 impacted by a superior court decision.

17 And while C.A.A.F. is certainly not the C.M.C.R.,
18 C.A.A.F.'s decision, make no doubt, will have an impact on
19 this commission. And, in fact, because the decision of
20 C.A.A.F. will have an impact, the chief defense counsel of the
21 MCD0 organization was able to file an amicus brief on the
22 matter and C.A.A.F. accepted that. There is no doubt that
23 C.A.A.F.'s ruling with respect to the validity of those judges

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1 on the C.M.C.R. impacts each and every step in this military
2 commission.

3 The other thing, too, sir, to highlight on the
4 lifting of this stay is that Nashiri only consented to the
5 lifting of the stay in this commission because, prior to
6 C.A.A.F. granting cert in the Dalmazzi issue, there was no
7 manner to effectively challenge the C.M.C.R. judges's
8 appointment until post-trial review. There was no other way
9 to have a judicial review of the composition of those C.M.C.R.
10 judges. It would have to wait until post-trial.

11 So it made sense for the defense and for Mr. Nashiri
12 to agree to lifting the stay; however, that is no longer the
13 case. Neither one of those presumptions is true. With
14 C.A.A.F. granting cert on this issue, there is the ability to
15 re-examine the validity of the C.M.C.R. judges, the validity
16 of those opinions. And make no mistake, those opinions impact
17 the interlocutory appeals and then, therefore, impact this
18 commission today.

19 And there can be no question that the improper
20 appointment of an appellate judge is a structural error. And
21 that was clearly stated in U.S. v. Janssen, a military case in
22 C.A.A.F., the same court that is now hearing Dalmazzi, back in
23 2014.

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1 Contrary to the government's position in its response
2 brief, C.A.A.F. is controlling with respect to military
3 judges. If C.A.A.F. were to issue a decision saying that
4 these military judges -- two of the military judges that
5 issued an opinion in our case, Colonel Mitchell and
6 Judge King -- Captain King, are no longer military officers,
7 there's going to be a problem with them authoring an opinion
8 in their capacity as military officers. If they come back and
9 say that they were not properly appointed, that they had no
10 business executing duties on the C.M.C.R. because that
11 appointment and nomination was void, that is binding with
12 respect to their actions as military officers.

13 So really, no matter what C.A.A.F. comes back ----

14 MJ [Col SPATH]: Structurally where does C.A.A.F. get its
15 authority over the C.M.C.R.?

16 DDC [LCDR POLLIO]: Well, Your Honor ----

17 MJ [Col SPATH]: They don't have any. I mean, C.A.A.F.
18 and the C.M.C.R. are two totally separate systems.

19 DDC [LCDR POLLIO]: Sir, there is nothing in the statute,
20 because I would like to note that the statute in this system
21 of the C.M.C.R. and the military commissions is newly created.
22 However, when you look at the existing Article III case law
23 with respect to how district courts and other federal courts

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1 look at the decisions of the military court and they look at
2 the decision of C.A.A.F., they specifically state that the --
3 and some of the case law is older so it's referred to as the
4 Court of Military Appeals by C.A.A.F., which was the prior
5 initiation, but they do say that the Court of Military
6 Appeals' judgments are entitled to great deference on military
7 matters.

8 And there can be no question that C.A.A.F. weighing
9 in on whether or not military officers are indeed still
10 military officers, or whether or not their appointments to
11 another court, another Article I court as a principal officer
12 strip them of their rank and their title as a military
13 officer, that is indeed a military matter, which C.A.A.F.
14 would be granted great deference in any Article III court ----

15 MJ [Col SPATH]: Great deference is a lot different than
16 binding authority.

17 DDC [LCDR POLLI0]: Yes, sir.

18 MJ [Col SPATH]: So what I have here is the C.M.C.R. has
19 lifted the stay, with some agreement from the defense, there's
20 no doubt. Where do I get my authority to put a stay back in
21 place under our rules under 908? Because you all cited 908
22 before as where I'm going to get that authority, but that has
23 to do with government appeals in this case, and there are no

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1 pending government appeals in this case right now.

2 DDC [LCDR POLLIO]: Well, Your Honor, I would say that
3 part of the problem of your authority -- and, you know, I know
4 that you want a rule or a case, this is an ad hoc system.

5 MJ [Col SPATH]: This is not -- I disagree with your
6 characterization that it's ad hoc. I understand you have
7 audiences you talk to, and that's fine. There are lots of
8 rules that govern this process and there's lots of protections
9 that govern this process. We have been fighting motions for
10 years. That tells me that you all have significant
11 protections in place. It is not ad hoc.

12 What is different is there's not a body of appellate
13 work because these military commissions are different than
14 older military commissions. They come from a different law.
15 But it's not ad hoc. We're going to have to build a body of
16 appellate law. That's normal in this process.

17 So my question -- I'm looking -- and it is not
18 unusual that I want a law or a case for me to make a decision.
19 I'm a trial judge. I'm not going to make law if I can avoid
20 it. Occasionally I've made a couple of mistakes, but I'm not
21 going to make the law.

22 So what I'm trying to -- when I ask that, where is my
23 justification, really authority being the important word, to

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1 stay these proceedings with no government appeals pending for
2 this issue?

3 DDC [LCDR POLLIO]: Sir, and I think it comes back to the
4 basic rule on the military judge's power to grant a stay when
5 one party requests a stay of proceedings, and that is anytime
6 the interests of justice would dictate that.

7 And this is a situation where it perhaps doesn't
8 square -- this interlocutory appeal and the cloud that's
9 hanging over the C.M.C.R. doesn't fall squarely under the 908
10 interlocutory appeal, which would stay necessarily, but when
11 you go back to the basic rule of military judges and any judge
12 being able to control, and any -- you know, the defense can
13 request a stay and the prosecution can request a stay for a
14 variety of reasons that are not just an interlocutory appeal,
15 and it would be that same authority that would allow you to
16 grant a stay here in the interest of justice.

17 Because what you will have is a situation where, if
18 C.A.A.F. comes back and says that these military judges were
19 not properly appointed, then there can be no question that the
20 decision of the C.M.C.R. -- there is going to be a lot of
21 litigation with respect to those decisions.

22 So in the interest of equity and using judicial
23 resources and conserving government resources and money, it

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1 doesn't make any sense to continue to have hearings that are
2 impacted by those decisions, especially at this stage of the
3 trial.

4 MJ [Col SPATH]: Let me ask two questions. I guess, one,
5 where we're at here, we've got the order, case number, what is
6 it, 14-001 from 18 May of 2018 [sic], and we have the order
7 lifting the stay. So hasn't my -- here where I have C.M.C.R.
8 as my binding authority, haven't they already ruled on this
9 issue, arguably?

10 DDC [LCDR POLLIO]: I would say no, Your Honor, they have
11 not. They lifted the stay on the basis and the premise that
12 their decisions were valid. You have the ability and
13 authority and the control in this courtroom, when there is
14 another court saying that perhaps these judgments are, in
15 fact, void, that there's a problem with them, not only just
16 under the basic rules that you control and you set the pace in
17 this courtroom, you have that authority independent of the
18 C.M.C.R. lifting a stay with respect to interlocutory appeals.

19 So there is no reason for you to say that your hands
20 are tied because the C.M.C.R. lifted a stay. You have the
21 authority and the ability to say -- and look at this matter
22 and say, there is an open question that another -- the highest
23 military court has decided that there is an open question on

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1 the structural integrity of the C.M.C.R. And given that --
2 where we are in this case, where the prosecution has not even
3 completed discovery, that there just is no -- the interests of
4 justice dictate that the structural cloud over the C.M.C.R. be
5 determined before we move forward on motions and matters that
6 are impacted by their decisions.

7 MJ [Col SPATH]: And here what -- I mean, truly, the
8 motions and matters that are pending that might come back to
9 cause issues all relate to the Limburg. We have so many other
10 areas that we can focus our time on, because part of it is we
11 only have a week scheduled in December. We're going to talk
12 about issues, likely not much related to the Limburg, maybe
13 some, and then we're not here again until March. Many of
14 these issues are going to work themselves through their
15 process. So let's -- hypothetically they come back and say --
16 not C.A.A.F., by the way -- some other court says the C.M.C.R.
17 is wrongly constituted. What's the impact on us?

18 DDC [LCDR POLLIO]: If ----

19 MJ [Col SPATH]: Six months from now, eight months from
20 now, we deal with the Limburg issues again.

21 But we will have moved forward on all of the other
22 issues that have not ever been appealed to the C.M.C.R., and
23 why not move the ball forward on those right now?

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1 DDC [LCDR POLLIO]: And, sir, I believe that we did
2 present that in the alternative in our initial motion. We
3 would say that this court initially found that both
4 interlocutory appeals were sufficient to warrant a stay in
5 this case; however, understanding that, even in our initial
6 brief, we did say that in the alternative of a full stop, a
7 full stay of proceedings, that it makes judicial sense and
8 prudence to halt proceedings going forward on any of the
9 motions impacted by Limburg and perhaps any of the specific
10 things related to the COLE aggravator, which is the second
11 interlocutory matter, but specifically the Limburg charges as
12 well, sir.

13 MJ [Col SPATH]: All right.

14 DDC [LCDR POLLIO]: That's all I've got.

15 MJ [Col SPATH]: Thank you.

16 Trial Counsel.

17 ATC [LT CANTIL]: Good morning, Your Honor.

18 MJ [Col SPATH]: Good morning.

19 ATC [LT CANTIL]: Your Honor, the defense motion should be
20 denied. The defense is seeking a delay of these proceedings,
21 a substantial delay of these proceedings to wait for a
22 speculative outcome after review of two issues presented by
23 another party in another case before another court that is not

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1 this commission's reviewing court, and thus, cannot control
2 these proceedings.

3 In fact, one of the issues that the defense is asking
4 us to halt these proceedings for has already been resolved by
5 this commission's actual reviewing court, a decision which has
6 preclusive effect as the law of our case and is controlling.

7 And Your Honor mentioned during the defense argument,
8 you're a trial judge, you don't make the law. That's
9 absolutely correct. And you have the law here as provided by
10 the C.M.C.R., and what they have said is move forward, that
11 these issues don't warrant an abatement of these proceedings.

12 Now, regardless of whatever C.A.A.F. decides in
13 Dalmazzi on either of the two issues presented, C.A.A.F.'s
14 decisions are not binding on this commission, same as the
15 C.M.C.R. and D.C. Circuit's decisions aren't binding on
16 C.A.A.F. C.A.A.F. is not part of our appellate hierarchy and
17 they are not the commission's superior court as stated by the
18 defense. That's plainly incorrect. Any delay to wait for
19 their decision is unnecessary, unwarranted, and unsupported by
20 law.

21 And the defense in their argument cites to -- and
22 kind of rests their argument on the Section 908 of the Rules
23 for Military Commission, a rule, as you aptly pointed out,

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1 that discusses government appeals to the C.M.C.R. Well,
2 that's not what we have here. That rule certainly doesn't
3 contemplate speculative decisions by C.A.A.F. The C.M.C.R.
4 has spoken on this issue and said that -- they ruled against
5 the accused on this. And the only thing that's going to
6 overturn that is an en banc ruling by the C.M.C.R., a decision
7 by the D.C. Circuit, or a ruling by the Supreme Court,
8 certainly not a decision by the Court of Appeals for the Armed
9 Forces.

10 At this point, three courts have already ruled on
11 this issue: The D.C. Circuit, C.M.C.R., as well as the
12 Navy-Marine Corps Court of Criminal Appeals, at least as to
13 the first issue in Dalmazzi, and all have resolved this issue
14 against the accused here. But even if -- even if C.A.A.F.
15 were to decide inapposite to those three courts, then and only
16 then the defense could present a motion or a writ to a court
17 of competent jurisdiction. Because regardless of how C.A.A.F.
18 decides on the Dalmazzi issue, there's no decision in the
19 world that they can make that will have immediate effect on
20 this case. Whatever happens, either way, it will have to
21 be -- it will have to be a motion in this case, a writ in this
22 case, something like that. And any decision they make doesn't
23 necessarily overturn the ruling of the C.M.C.R. in this case.

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1 That would have to be fully briefed and argued.

2 Now, C.A.A.F. is scheduled to hear oral argument in
3 Dalmazzi on December 7 of this year, but who knows how long it
4 will take for them to issue an opinion. In the 2015 term, it
5 took up to seven months to issue an opinion. That puts us in
6 summer of next year and, as the defense said, whatever their
7 outcome, it will be subject to substantial litigation
8 potentially.

9 Now, what -- will we have to delay to wait for that
10 substantial litigation? Because then we're talking about
11 delaying this proceeding for years, a much longer time. And
12 it's unnecessary for such speculative outcome by a court that
13 isn't controlling here, a decision that doesn't really result
14 in prejudice to the accused, as he can raise his issue to a
15 court of competent jurisdiction.

16 Therefore, the defense motion should be denied.

17 And before I sit down, I think there's another issue
18 that bears your attention, or bears your consideration.

19 In the defense's argument to the D.C. Circuit
20 regarding hostilities earlier this year, the defense put forth
21 that the -- they required relief because the government was
22 unnecessarily delaying these proceedings. The D.C. Circuit
23 found the opposite of that, that the defense, in fact, was

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1 delaying these proceedings.

2 We've been on the record here for two months, we've
3 been on the record twice. This is the fourth motion to abate
4 that we'll potentially be hearing. If we take a common sense
5 look at what this motion is actually about, I think it becomes
6 pretty clear that this is seeking to grind this -- the defense
7 is seeking to delay these proceedings. And I submit to you
8 that this process deserves more than that, the victims and
9 their family members deserve more than that, and the public
10 deserves more than that.

11 Thank you. Thanks.

12 MJ [Col SPATH]: Commander Pollio.

13 DDC [LCDR POLLIO]: Sir. Well, sir, I'd like to start
14 with saying that the D.C. Circuit Court did not state that it
15 was the defense that had been unreasonably slowing down this
16 process. The D.C. Circuit Court, in fact, found that an
17 appellate review of this case, which the defense posited might
18 perhaps reach the D.C. Circuit Court by the year 2024, which
19 the government did not disagree with, they said that that was
20 not an unreasonable delay in time, quite frankly. So that
21 position is not in the D.C. Circuit Court opinion.

22 I also note that the government now seems concerned
23 that this case might be stayed for a year, although oral

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1 argument has already been scheduled for December, when it, of
2 course, is the government that sought a stay in the C.M.C.R.
3 in this case from 26 June 2015 to 29 April 2016. So roughly a
4 year-long period that it chose to stay this proceeding because
5 this issue is of such importance; however, the fix that the
6 government came to created more problems.

7 And it created an issue where the government states
8 that there is a law of our case, the C.M.C.R. has decided
9 facts, but the -- the very heart of the matter is the
10 C.M.C.R., as it exists and as it issued those opinions, may
11 not be a court. C.A.A.F. may decide that that is not a court
12 because those military officers were not properly appointed to
13 that court.

14 And one of the linchpins that the C.M.C.R. attempted
15 to say why the military officers were properly appointed was
16 because it was clearly a military function what the military
17 judges were doing.

18 That would be something that C.A.A.F. would be
19 controlling on and their decision would be impacting and
20 ruling on. And to say that C.A.A.F.'s decision would be
21 meaningless on two military officers when it was a panel of
22 three judges and two of which were military officers, if two
23 of the three panel members were improperly appointed, that is

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1 not a court, and so there is no law of the case in this case.

2 All the defense is asking is that this proceeding and
3 this commission exercise judicial economy. As Your Honor
4 stated, there are other matters that might be heard. The
5 Limburg charges and the matters that are impacted by those
6 interlocutory appeals are now hanging under a cloud. The
7 entire structural integrity of the C.M.C.R. is in question.
8 And this was, you know, a matter that was impacted in the
9 Williams v. Pennsylvania case. And in that case, the Supreme
10 Court said when the structural integrity of a court is
11 impacted, it impacts the entire case from the top down,
12 including every single decision.

13 So there is no reason for us to now proceed on
14 matters that are impacted by a decision from a court that may
15 not actually exist. And to ignore the fact that this is
16 pending in C.A.A.F. and to ignore the fact that C.A.A.F. has
17 granted cert, in not just Dalmazzi but probably a dozen of
18 other military justice cases, the fact that every single
19 service appellate and defense shop -- excuse me, government
20 appellate and government defense shop has been asked to weigh
21 in on this matter, the fact that every single service TJAG,
22 who by all means should have control over their
23 servicemembers, including Colonel Mitchell and Captain King,

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1 the fact that they have been asked to weigh in on this matter
2 suggests that this is a huge issue. And this court should not
3 put its head in the sand and ignore that this is going on. We
4 should be realistic and we should consider the impacts to this
5 system.

6 Thank you.

7 MJ [Col SPATH]: All right. Thank you. Counsel for both
8 sides, I want to turn back to 332 and -- dealing with
9 witnesses. Is Mr. Quinn available this morning?

10 TC [MR. MILLER]: We believe he will be, Your Honor. We
11 are checking. Based on representations yesterday, we informed
12 Mr. Quinn to come in at 9:45. So if we could have maybe a
13 short break.

14 MJ [Col SPATH]: That works. When he is ready -- we'll
15 take at least ten minutes just so everybody can have a comfort
16 break. Then as soon as he's ready after that, just let the
17 bailiff know and we'll get back on the record.

18 TC [MR. MILLER]: Thank you very much, Your Honor.

19 MJ [Col SPATH]: All right. We'll see you then. The
20 commission's in recess.

21 [The R.M.C. 803 session recessed at 0934, 18 October 2016.]

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