

# Exhibit A

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

SULEIMAN ABDULLAH SALIM, )  
et al., )  
)  
Plaintiffs, )  
) No. 2:15-cv-286-JLQ  
v. )  
)  
JAMES E MITCHELL and )  
JOHN JESSEN, )  
)  
Defendants. )

~~~~~

VIDEOTAPED DEPOSITION OF JOHN RIZZO

March 20, 2017

10:06 a.m.

Blank Rome LLP  
1825 Eye Street, Northwest  
Washington, D.C. 20006

Reported by: Lori J. Goodin, RPR, CLR, CRR  
Realtime Systems Administrator  
Assignment Number: 305772

1           A.     I don't recall. I don't recall that  
2 ever happening, no.

3           Q.     Okay. But you don't have a specific  
4 recollection that information provided by  
5 Mitchell and Jessen was not considered by OLC?

6           A.     No.

7           Q.     Okay. Thank you.

8           MR. LADIN: Let's take a break for  
9 just a moment, if that is all right.

10          THE WITNESS: All right.

11          THE VIDEOGRAPHER: The time is  
12 10:50 a.m. we are going off the record.

13                   (Recess taken -- 10:50 a.m.)

14                   (After recess -- 10:57 a.m.)

15          THE VIDEOGRAPHER: 10:57 a.m., on  
16 the record.

17 BY MR. LADIN:

18          Q.     So, I just want to return to the  
19 cable we have been discussing that was Exhibit J  
20 to your declaration.

21          A.     Right.

22          Q.     So, you describe that as a  
23 conversion of the August 1, 2002, Bybee memo in  
24 Paragraph 44 of your declaration --

25          A.     Yes.

1 Q. -- that you had sent to Green, the  
2 black site identified as Green.

3 A. Correct.

4 MR. BENNETT: Keep your voice up,  
5 please.

6 BY MR. LADIN:

7 Q. So, you have seen this cable before?

8 A. I'm sure I did.

9 Q. Well, who drafted this paragraph of  
10 your declaration?

11 A. I did.

12 Q. And, in doing so, did you examine  
13 the cable at Exhibit J?

14 A. Yes.

15 Q. So, turning to that cable, I would  
16 just like to walk through it. On the page we  
17 were looking at stamped Bates 1763, the cable you  
18 had sent to the black site that refers to SERE  
19 psychologists on the interrogation team, do you  
20 know who those SERE psychologists are?

21 MR. BENNETT: Then or now?

22 BY MR. LADIN:

23 Q. Do you now know who those SERE  
24 psychologists are?

25 A. I believe so, yes.

1 Q. And is that Drs. Mitchell and  
2 Jessen?

3 A. Yes.

4 Q. So, in this cable is there an  
5 indication that Drs. Mitchell and Jessen made a  
6 representation about whether these techniques  
7 could cause severe mental or physical pain or  
8 suffering?

9 MR. BENNETT: I'm going to object on  
10 the basis that the document speaks for  
11 itself. He has identified it as an exhibit,  
12 so --

13 MR. LADIN: I understand. I just  
14 want to get his take on the document.

15 MR. BENNETT: Go ahead, over my  
16 objection, go ahead.

17 THE WITNESS: I'm sorry, could  
18 you --

19 BY MR. LADIN:

20 Q. Sure. In this document that you had  
21 sent to the black site, does it indicate that the  
22 SERE psychologists on the interrogation team,  
23 which means Mitchell and Jessen, gave an  
24 indication of whether their techniques would  
25 produce severe mental or physical pain or

1 suffering?

2 MR. BENNETT: And where are you  
3 referring to?

4 MR. SMITH: Objection.

5 MR. LADIN: So that is the bottom  
6 paragraph.

7 MR. BENNETT: Objection.

8 Go ahead.

9 THE WITNESS: I'm just reading it  
10 again. Yes, that is what it says, yes.

11 BY MR. LADIN:

12 Q. Okay. And, with that in mind, do  
13 you still maintain that Mitchell and Jessen had  
14 no role in the OLC's consideration of the  
15 legality of the techniques?

16 MR. SMITH: Objection. You can  
17 answer.

18 THE WITNESS: Well, as I indicated  
19 earlier, what I meant to say in that  
20 paragraph that I was trying to get across, is  
21 that they had no, to my knowledge, they had  
22 no interactions with the OLC during the  
23 course of the OLC deliberation.

24 BY MR. LADIN:

25 Q. But, in fact, they did provide

1 information that OLC considered in assessing the  
2 legality of the techniques?

3 A. Appears to be the case, yes.

4 Q. Now, when you initiated the process  
5 with OLC, to review the legality of the  
6 techniques, did you ask for evaluations of all of  
7 the techniques that Mitchell and Jessen  
8 recommended?

9 A. Yes, all of the 12 original  
10 techniques, yes, asked for a collective  
11 evaluation.

12 Q. And did you ask for the evaluation  
13 of any other techniques?

14 A. No. Just the ones that, the 12 that  
15 had become part of the record.

16 Q. And these 12 techniques were  
17 recommended by Mitchell and Jessen?

18 A. Well, they were recommended by CTC  
19 management.

20 Q. And as far as you know, was someone  
21 besides Mitchell and Jessen involved in selecting  
22 the techniques?

23 MR. SMITH: Objection.

24 THE WITNESS: Yes, I think, my  
25 recollection was there were a number of

1 people in CTC involved in that process.

2 BY MR. LADIN:

3 Q. Now, once you turned over the  
4 assessment process to OLC, would it be correct to  
5 say that you wanted legal cover from OLC?

6 MR. BENNETT: Well, I'm going to  
7 object. What do you mean by cover?

8 MR. LADIN: I'm actually trying to  
9 use a term from your book. So, maybe it is  
10 just easiest if we, if we distribute those  
11 pages.

12 MR. BENNETT: But I want to be sure  
13 his use of the term and yours is the same.  
14 That is my concern.

15 MR. LADIN: I appreciate that. And  
16 I think the best way will probably be to have  
17 Mr. Rizzo explain it.

18 MR. HANNER: Could you tell us which  
19 pages?

20 MR. LADIN: Sure. It is on  
21 Page 188.

22 MR. HANNER: Thank you.

23 MR. LADIN: And it is the paragraph  
24 at the middle of the page.

25 MR. BENNETT: Beginning with, "I



1 Q. You say the OLC confirmed that the  
2 EITs could be used on other HVDS.

3 How did that work?

4 MR. BENNETT: I am not sure what  
5 that means. I object to the form.

6 MR. LADIN: Sure. Let me ask it  
7 another way.

8 BY MR. LADIN:

9 Q. You say that the OLC confirmed that  
10 EITs could be used on other HVDS within a few  
11 months of the Bybee memo; is that correct?

12 A. That's correct.

13 Q. How did the OLC confirm that?

14 A. I asked them if they could. A few  
15 months after the Bybee memo, the CIA captured and  
16 detained Khalid Sheikh Mohammed. He was the --  
17 well, he was, at that point in time, at least,  
18 the biggest capture.

19 And, the CTC people, again,  
20 determined he was not cooperating, would not  
21 cooperate. And, so, they wanted to explore the  
22 possibility of using similar techniques that had  
23 been used on Zubaydah on KSM.

24 Q. You said similar techniques. Were  
25 they not identical?

1           A.       I don't think they were absolutely  
2 identical. That is my recollection.

3           Q.       Do you recall any differences?

4           A.       I don't believe that the so-called  
5 bug in the box scenario. That was tailored for  
6 Zubaydah.

7                    I don't believe that that was ever  
8 under consideration for Khalid Sheikh Mohammed.

9           Q.       And when you say tailored to  
10 Zubaydah, in what way was it tailored to  
11 Zubaydah?

12           A.       Well, the assessments of Zubaydah at  
13 the time concluded that he was very afraid of  
14 insects.

15                    So, this is part of his  
16 psychological makeup. So, that is why this  
17 particular technique was put together for him.

18           Q.       Now, in the next paragraph of your  
19 declaration, you point to Exhibit N, which are  
20 specific guidance for the interrogations of  
21 detainees --

22           A.       Right.

23           Q.       -- held at the black sites. This  
24 has been marked as Exhibit 38.

25                    (Whereupon, previously marked

1 Exhibit 38, first referral.)

2 BY MR. LADIN:

3 Q. This is 38.

4 And so, you said, I believe, that  
5 these are the guidelines for interrogations at  
6 the black sites; is that correct?

7 A. Yes.

8 Q. And so this is the instructions as  
9 to the black sites as to how they are to conduct  
10 interrogations in compliance with the legal  
11 authorization; is that right?

12 A. Yes, as I recall, yes.

13 Q. And this appears to have been sent  
14 to Cobalt; is that right?

15 A. That is what it says on the  
16 document. The word, Cobalt, is contained there.

17 Q. So, does this document describe the  
18 EIT program in 2003?

19 A. Yes.

20 Q. And it lists, it lists on Page 1172  
21 the enhanced techniques that were part of the EIT  
22 program in 2003?

23 A. Correct.

24 Q. And these techniques are, except  
25 for -- well, actually it does have the bug in the

1 box. So, these techniques are the 12 Abu  
2 Zubaydah techniques -- sorry. The 11, minus mock  
3 burial?

4 A. Appear to be.

5 Q. So, was the EIT program a  
6 duplication of the techniques that were  
7 authorized for Abu Zubaydah that could now be  
8 used on other detainees?

9 MR. SMITH: Objection.

10 THE WITNESS: Well, they say the Abu  
11 Zubaydah, the techniques developed for Abu  
12 Zubaydah proved to serve as a template for  
13 the enhanced interrogation techniques that  
14 were used on a number of subsequent high  
15 value detainees.

16 BY MR. LADIN:

17 Q. Do you see any technique listed here  
18 that is different than the ones that were  
19 approved on Abu Zubaydah?

20 A. No, they appear to be the ones.

21 Q. Okay. And these were the techniques  
22 that are contained in Exhibit 17?

23 A. Well, again you gave me the one with  
24 the blank page.

25 Q. Oh, I do apologize for that.

1 A. Get rid of this one. Yes.

2 Q. And, eventually, the programs, the  
3 techniques that were part of the EIT program  
4 changed; is that correct?

5 A. Yes.

6 Q. But, certain of the core enhanced  
7 interrogation techniques persisted throughout the  
8 life of the interrogation program; is that  
9 correct?

10 A. I don't know what you mean by core.

11 Q. Were there a number of techniques  
12 that were present in the enhanced interrogation  
13 program for the lifetime of that program?

14 A. Yes.

15 Q. And other of the techniques were  
16 dropped?

17 A. That's correct.

18 Q. Had you kept up with Drs. Mitchell  
19 and Jessen during the years of the program?

20 A. Had I kept up with them?

21 Q. Did you consult with them  
22 periodically?

23 A. I would, as the years went on, sure,  
24 I talked to them. And they talked to me. Yes.

25 Q. And did you get reports about their

1 activities in the program?

2 A. I'm sure they told me what they were  
3 doing at any particular time, yes.

4 Q. Do you have -- so, on the, on  
5 Frontline I believe you said that, later in the  
6 program, Mitchell and Jessen were training CIA  
7 people to conduct the interrogations. They were  
8 skilled trainers and patient teachers.

9 Do you stand by that?

10 A. I do.

11 Q. So, your understanding was that they  
12 taught other interrogators how to use their  
13 techniques?

14 A. Yes.

15 Q. How do, they trained other CIA  
16 interrogators in the program?

17 A. That was my understanding, yes.

18 Q. And over the years you dealt with  
19 different permutations of the EIT program, all of  
20 the way up until 2007, when Secretary of State  
21 Rice wanted a personal briefing on the program?

22 A. Well, that is correct. I mean, I  
23 was involved in it after that point, too.

24 Q. All right. We will get there, but  
25 let's start with that meeting with Secretary Rice.

1                   So, in your book, I don't know  
2                   which, I don't know what Exhibit Number it is, I  
3                   think it is maybe 47. Is that?

4                   A.        Okay.

5                   Q.        So, if you look at the end of the  
6                   excerpt, it is Pages 269 to 270. If you want to  
7                   take a look.

8                   A.        All right.

9                   Q.        So, it should be the, right by the  
10                  end of the copy.

11                  A.        Right, right, right. Right.  
12                  Beginning with a failed nomination. Yes. I  
13                  remember that. Yes.

14                  Q.        Yes. So, you write there,  
15                  "Secretary of State Rice wanted a personal  
16                  briefing on the newly refined slimmed down set of  
17                  techniques, and she wanted to get it directly  
18                  from the original architects of the program, two  
19                  outside psychologists the agency had hired under  
20                  contract more than five years earlier."

21                                When you write two outside  
22                  psychologists, are you referring to Drs. Mitchell  
23                  and Jessen?

24                  A.        Yes.

25                  Q.        And you said Secretary of State Rice

1 wanted a personal briefing on the EIT program?

2 A. Yes.

3 Q. And she wanted to get it directly  
4 from the original architects?

5 A. Yes.

6 Q. And those original architects are  
7 Drs. Mitchell and Jessen?

8 A. Yes.

9 Q. And then on Page 270, you write,  
10 just at the very top, "The two EIT architects,"  
11 and then you describe the meeting. And then you  
12 say, "They talked about their backgrounds," in  
13 the second sentence, "the genesis of the original  
14 techniques they came up with, the safeguards  
15 built into the program, the way the program  
16 evolved and had been refined over the years," and  
17 so on.

18 Do you stand by that account?

19 A. Yes. Based on my recollection, as I  
20 was writing, yes.

21 Q. So, Drs. Mitchell and Jessen  
22 described the genesis of the original techniques  
23 they came up with?

24 A. That was my recollection.

25 Q. And they described the safeguards?



1 A. Yes.

2 Q. Do you remember what those  
3 safeguards were?

4 A. Well, I'm sure it included the  
5 presence of medical personnel. You will need to  
6 come back to headquarters for approvals for each  
7 technique. Things of that nature.

8 Q. And some of those safeguards changed  
9 over the years, correct?

10 A. No. I'm not aware of that. Could  
11 you be more specific?

12 Q. Sure. There came a time when the  
13 Office of Medical Services made recommendations  
14 as to how the use of the waterboard should be  
15 different than it was early on in the program.

16 Do you recall that?

17 A. Yes, vaguely, yes.

18 Q. Okay. There were also changes to  
19 the amount of time sleep deprivation was  
20 authorized for?

21 A. That's correct, that's correct.

22 Q. So, you write here that they  
23 described the way the program had evolved and  
24 been refined over the years.

25 A. Correct.

1 one. Oh, sorry, it has already been marked  
2 as Exhibit 35.

3 (Whereupon, previously marked  
4 Exhibit 35, first referral.)

5 THE WITNESS: Okay.

6 BY MR. LADIN:

7 Q. So, is this a contemporaneous record  
8 of the meeting that took place with Secretary Rice?

9 A. It appears to be, yes.

10 Q. And if you look on the second page,  
11 it says that the Secretary expressed her concern  
12 about a particular sleep deprivation method.

13 MR. BENNETT: Where are you  
14 referring to?

15 MR. LADIN: Sure, sorry. So, the  
16 paragraph begins on the second page.

17 BY MR. LADIN:

18 Q. It says, "During the discussion of  
19 the sleep deprivation EIT, the Secretary of  
20 State made it clear that her concern did not  
21 center on depriving a detainee of sleep, but the  
22 specific method of implementation and the image  
23 the EIT evoked. She expressed concern that this  
24 image was reminiscent of images associated with  
25 Abu Ghraib."

1 Is that accurate?

2 A. Yes, it refreshes my recollection.  
3 Yes. I believe I remember something, a  
4 discussion along those lines, yes.

5 Q. And her concern was that a detainee  
6 who was nude and shackled in a standing sleep  
7 deprivation posture evoked images of Abu Ghraib?

8 A. That is what it says, yes.

9 Q. And that is what you recall being  
10 expressed in the meeting?

11 A. Yes, I do now. But I didn't when I  
12 was writing my book, because I didn't have  
13 contemporaneous documents to look at.

14 Q. Now having refreshed your  
15 recollection, do you recall whether the Secretary  
16 of State asked for some change to be made in the  
17 sleep deprivation technique?

18 A. No, I don't recall that.

19 Q. Okay. Well, if you look at the last  
20 couple of paragraphs on the page, it says that  
21 Doctors Jessen and Mitchell indicated the  
22 possibility of devising alternative methods to  
23 deprive sleep.

24 And then, at the very bottom of the  
25 page it says, "Jessen and Mitchell will work on

1 alternative methods for implementing sleep  
2 deprivation EIT and proposed courses of action."

3 Does that refresh your recollection?

4 A. Vaguely, vaguely. I mean, I  
5 certainly don't deny that that came up. I have  
6 no reason to dispute it.

7 I just don't really remember that  
8 part of the conversation.

9 Q. Do you know why it would be Mitchell  
10 and Jessen who would be tasked with devising a  
11 new form of sleep deprivation?

12 A. Well, they were the, you know, it  
13 was Dr. Mitchell, Dr. Jessen and me representing  
14 the CIA at the meeting.

15 So, I mean, it was a colloquy among  
16 us and Secretary Rice. With them being there and  
17 them being the experts, she asked them.

18 Q. And as far as you are aware, there  
19 would not be other people in the CIA who would be  
20 more appropriately tasked with devising new EITs?

21 A. No, I -- there could well have been.  
22 They just didn't, were not in the room with the  
23 Secretary at the time.

24 Q. And that is because the Secretary  
25 wanted the architects of the program there?

1 think so.

2 BY MR. LADIN:

3 Q. Well, did you, did you speak with  
4 the defendants about your declaration?

5 A. The defendants?

6 Q. Yes.

7 A. No.

8 Q. Did you speak with their attorneys  
9 about the declaration?

10 A. No.

11 Q. How did you decide what your  
12 declaration would include?

13 A. Well, my attorneys indicated the  
14 areas that I should try to cover in the  
15 declaration and --

16 MR. BENNETT: I'm going to object  
17 beyond that.

18 MR. LADIN: And that would be on the  
19 basis of privilege?

20 MR. BENNETT: Well, I don't think  
21 you have any right to ask him why I decided  
22 to include certain things in his declaration.

23 MR. LADIN: Sure. And --

24 MR. BENNETT: And, you have been  
25 operating on the assumption that the

1 defendants participated in that. And I'm  
2 saying that he says that is not correct.

3 So, go ahead and ask your next  
4 question.

5 BY MR. LADIN:

6 Q. Sure, I'm not looking to pry. I'm  
7 purely curious about whether -- so, your  
8 declaration makes a statement about whether Gul  
9 Rahman was part of the EIT program.

10 A. Right.

11 Q. Your declaration makes no statements  
12 about the other plaintiffs in this case. Your  
13 declaration was provided as part of this case.

14 A. Right.

15 Q. What I'm trying to ask you, and  
16 perhaps you can't answer, is whether the  
17 defendants asked you to declare something about  
18 the other plaintiffs in this case?

19 A. No.

20 Q. Okay. Did you ever seek OLC  
21 guidance for a separate EIT program that was  
22 distinct from the EIT program we have been  
23 discussing?

24 A. No. I mean we discussed earlier the  
25 fact that the EIT program as the years went on

1 was changed or refined. And I sought guidance  
2 on -- well, I sought guidance throughout the  
3 course of the program for OLC.

4 But, a, you are asking about a  
5 separate, another EIT program separate and apart  
6 from that?

7 Q. Yes.

8 A. No.

9 Q. And did you ever promulgate any  
10 guidance within the CIA about the use of a  
11 separate EIT program than the ones that Mitchell  
12 and Jessen had recommended for Abu Zubaydah and  
13 were later standardized?

14 A. No recollection of doing any such  
15 thing.

16 Q. Did you ever hear about  
17 investigations of EIT use on either Salim  
18 Abdullah or Mohamed al-Karim?

19 A. You know, sitting here today, I  
20 don't remember that. But I'm not saying it, I  
21 was not told about these things at the time.

22 Q. Okay.

23 MR. SCHUELKE: I'm told that the  
24 staff has got lunch outside. Is this a good  
25 time?

1 MR. LADIN: Sure. Yes, let's break  
2 right here.

3 THE VIDEOGRAPHER: Off the record at  
4 12:12.

5 (Recess taken -- 12:12 p.m.)

6 (After recess -- 12:57 p.m.)

7 THE VIDEOGRAPHER: We are now on the  
8 record. This is the beginning of Videotape 2  
9 in the deposition of John Rizzo. The time  
10 now is 12:57 p.m.

11 BY MR. LADIN:

12 Q. Mr. Rizzo, I would like to direct  
13 your attention to document that we will mark --

14 MR. LADIN: Is this 51?

15 (Exhibit Number 51  
16 marked for identification.)

17 BY MR. LADIN:

18 Q. And this is an Inspector General  
19 report from the CIA about the death of Gul  
20 Rahman. And I'm going to ask you about  
21 Page 1287.

22 A. Okay, I'm there.

23 Q. Okay. So, do you see it says at the  
24 top of the page, "This cable written by Jessen  
25 for a different detainee requested permission to



1 BY MR. LADIN:

2 Q. In your experience, would the CIA  
3 make misrepresentations to members of Congress  
4 about this enhanced interrogation program?

5 A. No.

6 Q. Okay. If you turn to Page 25. Do  
7 you see there the --

8 MR. SMITH: Give us a second.

9 THE WITNESS: Hold it.

10 BY MR. LADIN:

11 Q. Sure. This is the Page 25 that  
12 begins, "CIA remains grateful."

13 A. All right, I have it.

14 Q. Okay. Do you see the second bullet  
15 point?

16 A. I do.

17 Q. It says, "We agree that CIA should  
18 have done more from the beginning of the program  
19 to ensure there was no conflict of interest, real  
20 or potential, with regard to the contractor  
21 psychologists who designed and executed those  
22 techniques while also playing a role in  
23 evaluating their effectiveness as well as other  
24 closely related tasks."

25 Did you have an understanding that

1 the contractor psychologists who designed and  
2 executed the techniques played a role in  
3 evaluating the techniques' effectiveness?

4 A. I believe I had that impression,  
5 yes.

6 Q. And did that suggest to you the  
7 existence of a conflict of interest?

8 A. No, it did not.

9 Q. Do you disagree with the CIA's  
10 conclusion that there should have been more done  
11 to prevent a conflict of interest from arising  
12 with regard to the contractor psychologists?

13 A. Do I believe that now, or at the  
14 time?

15 Q. Yes, do you disagree with the CIA's  
16 statement here?

17 A. No. No.

18 Q. So, you would agree that the CIA  
19 should have done more to ensure there was no  
20 conflict of interest when the contractor  
21 psychologists evaluated their own techniques?

22 A. Yes, I think that is a fair, a fair  
23 suggestion.

24 Q. If you look back at the IG report.

25 A. This is a big one?

1 Q. Actually, sorry. Never mind, we  
2 don't really need to do that.

3 Let's go back to the office, or  
4 professional responsibility report instead.

5 A. Okay.

6 Q. I'm going to ask you about a  
7 statement on Page 100.

8 A. Okay.

9 Q. So, it says there that you had an  
10 MFR of a March 24, 2003, meeting?

11 MR. SMITH: What exhibit is before  
12 the witness?

13 MR. FREY: This is 239.

14 MR. SMITH: What page?

15 THE WITNESS: What page is this?

16 MR. LADIN: Page 100.

17 THE WITNESS: I don't see that.

18 BY MR. LADIN:

19 Q. Sorry. It might begin on the  
20 previous page. I'm finding it myself. Sorry,  
21 I've pointed you to the wrong page.

22 Did you ever voice any concerns  
23 about representations that the United States  
24 government had made that all detainees held by  
25 the United States were to be treated humanely?

1 MR. SMITH: Paragraph 4.

2 MR. LADIN: Paragraph 4, yes.

3 BY MR. LADIN:

4 Q. "That the subject has actionable new  
5 information about current threats."

6 Do you see that?

7 A. Yes.

8 Q. And if you turn to the first page,  
9 you see a date of August 10th; is that right?

10 A. That's correct.

11 Q. Okay. If we turn to your book  
12 excerpts, which is, is that Exhibit 47?

13 MR. BENNETT: I'm sorry, where is  
14 the date August 10th?

15 MR. LADIN: At the top. Sorry.

16 THE WITNESS: In the middle there.

17 MR. BENNETT: Doesn't that say  
18 August 2nd.

19 MR. LADIN: No, that is August '02,  
20 2002.

21 THE WITNESS: Okay.

22 BY MR. LADIN:

23 Q. So, turning to your book excerpt,  
24 you wrote, on Page 193 --

25 A. Wait a minute. Is that part of the

1 book excerpts you handed me earlier?

2 MR. LADIN: Uh-huh.

3 BY MR. LADIN:

4 Q. I think one of your attorneys  
5 actually has the book, itself.

6 A. I'm sorry, I can't get used to these  
7 double sides. Okay, go ahead.

8 Q. So you wrote that, "Just days after  
9 the EIT's began, they ended. They ended as soon  
10 as Zubaydah's resistance ended. He had reached  
11 the stage of what our outside consultants called  
12 learned helplessness."

13 Do you see that?

14 A. On 192. Let's see.

15 Q. I think it is 193, actually.

16 MR. SMITH: Which paragraph?

17 BY MR. LADIN:

18 Q. Let's get there.

19 A. Yes, I see where that is now.

20 Q. Now, when you say "He had reached  
21 the stage are what our outside consultants called  
22 learned helplessness," the outside consultants  
23 are Drs. Mitchell and Jessen?

24 A. That's right.

25 Q. What did you understand the term

1 learned helplessness to me?

2 A. Well I'm a layman. My understanding  
3 is that the notion that the detainee would  
4 recognize that further resistance would be  
5 futile.

6 Q. And so, therefore, he wouldn't be  
7 holding anything back?

8 A. Yes, correct.

9 Q. Okay. So, we just looked at a cable  
10 on Day 6, in which the team had assessed that  
11 Abdullah Zubaydah was not holding back actionable  
12 new information about current threats to the  
13 United States. That is at Paragraph 4.

14 A. Right.

15 Q. But it says that, "The team plans to  
16 maintain the current level of pressures to  
17 develop and refine this preliminary assessment."

18 Do you see that?

19 A. I see that, yes.

20 Q. I would like you to look at another  
21 document.

22 MR. LADIN: So, let's mark this.

23 (Exhibit Number 54

24 marked for identification.)

25 BY MR. LADIN:

1 Q. If you turn to the second page.

2 A. Okay.

3 Q. It says, "Subject has continued to  
4 say he knows of no threats to the United States  
5 other than those he has already mentioned."

6 And then it says, "In short" -- that  
7 is at the very top.

8 And then right before Paragraph C,  
9 it says, "In short, however, no significant new  
10 details emerged from sessions, especially in  
11 regards to new threat information."

12 A. I see that.

13 Q. And you see that this is now Day 11  
14 of the aggressive interrogation phase -- sorry,  
15 that is still on the page you were on before.

16 A. Right. I wanted to look at the date  
17 of the cable, that is all. August 14th. Yes.

18 Q. And so this is now five days past  
19 the previous assessment, that he wasn't holding  
20 back information.

21 It says, "He seemed to display" --  
22 if you look at Paragraph 3, above the redaction.  
23 It says, "He seemed to display a desperate  
24 resignation at his inability to convince the  
25 interrogators that he was not holding back

1 me. I have a lot of respect for Mr. Philbin.  
2 So, he is certainly free to express his  
3 opinions.

4 BY MR. LADIN:

5 Q. And what about when John Bellinger  
6 said that "he viewed nudity combined with  
7 shackling a person to prevent sleep to be  
8 humiliation and degradation of a level that would  
9 be considered an outrage upon personal dignity."

10 Does that trouble you?

11 MR. BENNETT: Objection, go ahead.

12 MR. SMITH: Objection.

13 THE WITNESS: Does it trouble me  
14 that Bellinger said it?

15 BY MR. LADIN:

16 Q. Yes.

17 A. No. John was expressing his  
18 sincerely held opinions. As we discussed  
19 earlier, it also reflected the view of his  
20 superior, Secretary Rice.

21 Q. The data that you at CIA received  
22 about the safety of the SERE techniques was  
23 entirely about the use of SERE techniques on  
24 volunteers; is that correct?

25 A. Okay. We are going back now to the



1 beginning of the program, when it was first  
2 presented --

3 Q. At any point?

4 A. Well, what I remember about  
5 reference to the SERE program was mostly at the  
6 beginning, as we discussed earlier.

7 So, I'm sorry. Just repeat the  
8 question again.

9 Q. Sure. You were presented with a  
10 list of techniques.

11 A. Right.

12 Q. You were told they were based to  
13 some degree on SERE training.

14 A. Right.

15 Q. You were presented and you presented  
16 OLC with data as to the safety of those  
17 techniques in terms of SERE.

18 A. Uh-huh.

19 Q. All of that safety data, that was  
20 based on SERE training of volunteers; is that  
21 correct?

22 A. That was my understanding, yes.

23 Q. And, neither Mitchell nor Jessen nor  
24 anyone else pointed you to studies of prisoners  
25 of war; is that correct?

1 A. Not that I recall, no.

2 Q. And you didn't, yourself, review, as  
3 far as you recall, any studies of actual  
4 prisoners of war; is that correct?

5 A. I did not.

6 MR. LADIN: In fact, I believe,  
7 let's mark this as 52 -- oh, 57.

8 (Exhibit Number 57  
9 marked for identification.)

10 BY MR. LADIN:

11 Q. You were interviewed by the New York  
12 Times about the long-term effects of some people  
13 who had been subjected to enhanced interrogation  
14 techniques; is that correct?

15 A. Yes, right.

16 Q. And you told the Times that in  
17 hindsight --

18 MR. BENNETT: Where are you in the  
19 article?

20 MR. LADIN: Sure, you can review it.  
21 I will find out where I am in the article and  
22 then I will tell you.

23 I am on Page 6, but you can probably  
24 begin on Page 5.

25 Specifically, it says that, "General

1 Xenakis found decades of paper -- decades of  
2 papers on the effects of abusive practices."

3 Do you see that.

4 MR. SMITH: I don't.

5 THE WITNESS: Is it at the bottom.

6 BY MR. LADIN:

7 Q. Sure. It is on Page 5. It says,  
8 "Back home in Virginia."

9 A. General Xenakis, yes. Right. I see  
10 that.

11 Q. It says, "He found decades of papers  
12 on the issue, science that had not been  
13 considered when the government began crafting new  
14 interrogation policies after September 11th."

15 Do you see that?

16 A. I see that, yes.

17 Q. Do you remember any research into  
18 the effects of abusive practices at the time that  
19 these techniques were being considered?

20 A. Abusive --

21 Q. Abusive practices, rather than  
22 training on volunteers?

23 A. Yes. No, I don't recall that.

24 Q. And on the next page, there is a  
25 quote from you that says, "In hindsight, that

1 should have come to the floor."

2 Do you see that?

3 A. Yes.

4 Q. Do you stand by that statement?

5 A. Yes, that is what I said, in  
6 hindsight. Sure.

7 Q. And you are a lawyer, of course, not  
8 a psychologist, correct?

9 A. I am not a psychologist.

10 Q. And you were not aware of the body  
11 of social science research that existed about  
12 prisoners of war; is that correct?

13 A. I was not, no.

14 Q. And that research was not brought  
15 to your attention by either Dr. Jessen nor  
16 Dr. Mitchell; is that correct?

17 A. I don't recall, frankly, anyone  
18 bringing it to my attention.

19 Q. Okay. Later on Page 6, it says  
20 that, "There was little incentive or time to find  
21 contrary evidence."

22 A. Sorry. I thought we had left that,  
23 sorry.

24 Q. Sorry. It is the second to the last  
25 paragraph on that page.

1 A. Let's see. Yes, I see it. Right.

2 Q. And it says there was little  
3 incentive or time -- well, I will read the full  
4 sentence.

5 "With fear of another terrorist  
6 attack, there was little incentive or time to  
7 find contrary evidence. The government wanted a  
8 solution. They wanted a path to get these guys  
9 to talk."

10 A. Right.

11 Q. Do you stand by that assessment?

12 A. Well, I stand by the quote that is  
13 in quotes. I did say that.

14 With respect to the first sentence,  
15 you know, I don't recall telling the reporters  
16 that using that phrase, there was little  
17 incentive or time to find contrary evidence. I  
18 just don't remember saying those words.

19 But, the second, the second sentence  
20 is an accurate quote.

21 Q. And as to the first sentence,  
22 sitting here today, do you disagree with that?

23 A. Well, I disagree with, that there  
24 was little time to find contrary evidence. I  
25 would, I take issue with the idea of little

1 the name that is being redacted. It could be  
2 any other kind of identifier.

3 MR. WARDEN: If what was underneath  
4 those two redactions were either  
5 Dr. Mitchell's name, code name, or another  
6 identifier, we would have substituted it.

7 MR. SMITH: Okay.

8 MR. WARDEN: If that is not there  
9 then what is under the black is something  
10 other than those terms.

11 MR. SMITH: Okay. And I heard what  
12 you said, counsel. And I don't know what was  
13 redacted. I'm left to my own devices with  
14 these documents from the government.

15 BY MR. SMITH:

16 Q. But, do you recall looking at this  
17 document, if there were other opinions you got  
18 from other SERE psychologists as suggested by  
19 Exhibit Number 59?

20 A. Yes, I don't specifically recall  
21 this document, but not to say I didn't see it. I  
22 just don't remember at this point in time.

23 Q. So, even though you don't recall the  
24 document, what about the subject matter that I'm  
25 asking you about?

1 Do you recall if there were SERE  
2 psychologists, other than Mitchell and Jessen,  
3 who provided opinions to the CIA relating to  
4 these enhanced interrogation techniques?

5 A. No, to the best of my recollection  
6 the only SERE psychologists I knew that were  
7 providing advice were Drs. Mitchell and Jessen.

8 Q. Okay. All right. Let's move on  
9 then. And to the extent that JPRA came to the  
10 conclusion that there were no long-term  
11 psychological effects resulting from the use of  
12 EITs, you don't know what the source of that  
13 agency's information was?

14 A. No. Not specifically.

15 Q. Okay. What about generally?

16 A. You know, I did probably know at  
17 some point. I just can't remember now.

18 Q. Okay. Turn, if you would, to  
19 Paragraph 48, which appears on the top of Page 9  
20 of your declaration marked as Exhibit Number 45.

21 Tell me when you are there.

22 A. I am there.

23 Q. Paragraph 48 is one sentence. It  
24 states, "It is my understanding that all EITs  
25 were applied to Zubaydah consistent with the

1 August 1, 2002, Bybee memo."

2 Do you see that?

3 A. I do.

4 Q. What is the source of your  
5 information for Paragraph Number 48?

6 A. Well, a couple of things. We had  
7 sent one of our attorneys in the Office of  
8 General Counsel to review the videotapes of the  
9 interrogation of Zubaydah, many hours of  
10 videotapes. These were videotapes that were  
11 subsequently destroyed.

12 And he returned to say, as I am  
13 going through them carefully, that none of the  
14 EITs -- all of the EITs applied to Zubaydah were  
15 consistent with the Bybee memo. In other words,  
16 there were no unauthorized techniques.

17 Q. And just so we are clear, the Bybee  
18 memo was the memo that served as the legal  
19 authority to proceed with 11 of the 12  
20 techniques; is that correct?

21 A. Correct.

22 Q. Okay. And mock burials was the one  
23 that was removed?

24 A. That's correct.

25 Q. Okay. Now I want to ask you about



1 CERTIFICATE OF COURT REPORTER

2

3 UNITED STATES OF AMERICA )

4 DISTRICT OF COLUMBIA )

5 I, LORI J. GOODIN, the reporter before  
6 whom the foregoing deposition was taken, do  
7 hereby certify that the witness whose testimony  
8 appears in the foregoing deposition was sworn by  
9 me; that the testimony of said witness was taken  
10 by me in machine shorthand and thereafter  
11 transcribed by computer-aided transcription; that  
12 said deposition is a true record of the testimony  
13 given by said witness; that I am neither counsel  
14 for, related to, nor employed by any of the  
15 parties to the action in which this deposition  
16 was taken; and, further, that I am not a relative  
17 or employee of any attorney or counsel employed by  
18 the parties hereto, or financially or otherwise  
19 interested in the outcome of this action.

20

21

-----  
LORI J. GOODIN

22

Notary Public in and for the

23

District of Columbia

24

My Commission expires: May 14, 2021

25