

EXHIBIT C

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

SULEIMAN ABDULLAH SALIM,)	
MOHAMED AHMED BEN SOUD,)	
OBAID ULLAH (as personal)	
Representative of)	
GUL RAHMAN),)	
)	
Plaintiffs,)	
)	No. CV-15-296-JLQ
Versus)	April 22, 2016
)	Spokane, Washington
JAMES ELMER MITCHELL and)	
JOHN "BRUCE" JESSEN,)	
)	Pages 1 - 90
Defendants.)	
)	

TRANSCRIPT OF PROCEEDINGS

MOTION TO DISMISS

BEFORE THE HONORABLE JUSTIN L. QUACKENBUSH

APPEARANCES:

For the Plaintiff:	AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON FOUNDATION
	BY: La Rond Baker Attorney at Law 901 Fifth Avenue, Suite 630 Seattle, WA 98164
	AMERICAN CIVIL LIBERTIES UNION FOUNDATION
	BY: Dror Ladin Steven M. Watt Hina Shamsi Attorneys at Law 125 Broad Street, 18th Floor New York, New York 10004

1 process.

2 THE COURT: The options that are before the Court are,
3 commence discovery. That could include all discovery.

4 That could include the depositions of the defendants,
5 the document demands, the depositions of the plaintiffs, and the
6 decedent's family and heirs.

7 It seems to me that this case is in that posture where
8 I should say, commence the discovery.

9 If you, whether it be a party or the Department of
10:40AM 10 Justice, that you represent, the United States, want to object,
11 then present the objection and I'll rule upon it.

12 That's why we have Courts, to make those decisions.

13 MR. WARDEN: Absolutely, Your Honor.

14 We, we agree with that. I think though, if, to the
15 extent the Court is still focused on the political question
16 issue, rather than opening the discovery up to a very broad set
17 of discovery that could pose burdens on the government to focus
18 on the --

19 THE COURT: I'm currently disposed to open it up to
10:40AM 20 the commencement of discovery.

21 MR. WARDEN: If, if that is, if that is --

22 THE COURT: So I just want the input from --

23 MR. WARDEN: Yes.

24 THE COURT: -- the Justice Department --

25 MR. WARDEN: Yes.

1 that's why we have separate branches of government, counsel.

2 MR. WARDEN: No, absolutely.

3 THE COURT: And when there's a disagreement as to
4 whether or not the government should furnish a document, that's
5 why we have the Judiciary to make those calls.

6 MR. WARDEN: Absolutely, Your Honor. We completely
7 agree with that.

8 And just to play this out, should we get an Touhy
9 request, we will have to respond to it, we will produce a
10:45AM 10 response.

11 If one of the parties is dissatisfied with our
12 response, then there could be motions to compel.

13 We would have arguments, every side would, on whether
14 it's relevant or burdensome or subject to protection --

15 THE COURT: How much of that took place in Al Shimari?

16 MR. WARDEN: There was a fair amount of litigation --

17 THE COURT: Was there --

18 MR. WARDEN: -- over discovery issues.

19 There were motions to compel related to documents.

10:45AM 20 There were motions to compel related to depositions of military
21 interrogators. It involved multiple agencies. Litigation
22 involving the Department of Defense, I believe the
23 Department of Homeland Security.

24 I think all of which is to say, if discovery opens in
25 this case it's going to be an, I think, a fairly lengthy and