

# Exhibit N

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

SULEIMAN ABDULLAH SALIM, et al.,

Plaintiffs,

vs.

JAMES E. MITCHELL and JOHN JESSEN,

Defendants.

NO. 2:15-cv-286-JLQ

**DECLARATION OF JOSE  
RODRIGUEZ**

I, Jose Rodriguez, hereby declare under penalty of perjury in accordance with the laws of the State of Washington, that the following is true and correct and within my personal knowledge and belief to the best of my recollection, and while I have no specific recollection of all the exhibits, I have no reason to dispute their accuracy or authenticity:

**A. BACKGROUND**

1. I am over the age of 18, have personal knowledge of all facts contained in this declaration, and am competent to testify as a witness to those facts.

2. I began working for the United States Central Intelligence Agency ("CIA") in 1976, shortly after graduating from law school.

3. As of September 11, 2001, I had achieved the rank of SIS 4 within the CIA. This is equivalent to the rank of a three-star general.

4. In the immediate aftermath of September 11, 2001, I served as the CIA's Counterterrorism Center's ("CTC") Chief Operating Officer/Deputy Director. The CTC is a division of the CIA's National Clandestine Service.

5. From May 2002 until November 2004, I served as the Director of the CTC.

13. Dr. Mitchell's contract with the CIA was modified in April 2002 to reflect CTC hiring him to provide additional services. A copy of the April 4, 2002 modification of his contract with the CIA is attached hereto as **Exhibit B**.

14. Once hired, Dr. Mitchell was directed to provide psychological consultation to the CTC in connection with the United States Federal Bureau of Investigation ("FBI") and CIA's ongoing effort to debrief and interrogate Abu Zubaydah ("Zubaydah").

15. Zubaydah had been captured in March 2002 and was the first al Qa'ida operative characterized by the United States as a "High-Value Detainee" ("HVD").

16. At the time of his capture in Pakistan, Zubaydah was a senior lieutenant of Bin Ladin and was extensively involved in al Qa'ida's operational planning. He had previously been an al Qa'ida external liaison and logistics coordinator.

17. At the CTC's direction, Dr. Mitchell was deployed overseas to the CIA's black-site where Zubaydah was being held, GREEN, to observe Zubaydah's ongoing interrogation by agents of the FBI and CIA, and to make recommendations to the CTC designed to overcome Zubaydah's resistance to traditional interrogation methods.

(2) **The CIA's Initial Interrogation of Zubaydah**

18. Dr. Mitchell was on-site to observe Zubaydah's interrogation by the FBI and CIA from March 2002 – June 2002. While in this role, Dr. Mitchell reported directly to CIA Headquarters ("HQS"), and I was aware of his activities.

19. During this time, as expressed in the cable attached hereto as **Exhibit C**, the CTC Primary Interrogator was in charge of and responsible for all aspects of Zubaydah's interrogation. Furthermore, I and all those at HQS expected all personnel to follow the CTC Primary Interrogator's directions.

DECLARATION OF JOSE RODRIGUEZ

47. In response to my request, Dr. Mitchell, on July 8 or 9, 2002, provided me with the email affixed hereto as **Exhibit J** entitled, “Description of Physical Pressures,” identifying the potential EITs, describing how they could be implemented, and identifying their intended effects upon Zubaydah.

48. The CIA, not Drs. Mitchell nor Jessen, solely determined which of the proposed methods of interrogation—EITs being one of them—would be used on Zubaydah. And the CIA solely determined which of the EITs identified by Dr. Mitchell in **Exhibit J**, if any, would (or would not) be considered for use by the CIA.

49. During July 2002, with Drs. Mitchell and Jessen’s input only as requested, the CTC began devising an interrogation plan for Zubaydah utilizing some or all of the EITs (hereinafter, the “EIT Program”). The hope was that use of some or all of the EITs upon Zubaydah would help overcome his resistance and dislocate his expectations so as to enable the CIA to secure information concerning imminent al Qa’ida attacks upon the United States and its interests.

50. During July 2002, CIA lawyers, including John Rizzo, specifically consulted with the White House and members of the United States Department of Justice’s (“DOJ”) Office of Legal Counsel (“OLC”) to assess the legality of using the EITs during Zubaydah’s interrogation, either individually or in combination, and to secure policy approval for their use.

51. On or about July 17, 2002, I was advised that National Security Council Advisor Condoleezza Rice had approved use of the EITs upon Zubaydah pending DOJ approval of the proposed techniques.

52. Then, on or about July 24, 2002, I was advised that United States Attorney General John Ashcroft (“Attorney General Ashcroft”) had concluded that the first six EITs

DECLARATION OF JOSE RODRIGUEZ

66. HQS exclusively determined what, if any, EITs were approved for use upon Zubaydah, and within what parameters.

67. HQS also exclusively determined the interrogation intelligence requirements for Zubaydah.

68. Moreover, the CIA, through HQS, the CTC and the COB of GREEN, maintained complete operational control over Drs. Mitchell and Jessen while they interrogated Zubaydah, whether using EITs or otherwise. Specifically, Drs. Mitchell and Jessen reported directly to the black-site COB.

69. The black-site COB, in turn, reported directly to me. As such, I was keenly aware of and approved of all of Drs. Mitchell and Jessen's activities.

70. The GREEN COB was responsible for ensuring that all on-site staff and support, including Drs. Mitchell and Jessen, complied with all applicable regulations, guidelines, standard operating procedures, and the applicable interrogation plan (for Zubaydah initially and other HVDs thereafter).

71. The COB provided me and HQS with detailed correspondence regarding interrogations on both a daily and an as needed basis.

72. I am aware that during the use of EITs upon Zubaydah, Drs. Mitchell and Jessen voiced a desire to discontinue their use.

73. Based upon this request, arrangements were made to enable not only members of the interrogation team, but representatives of HQS and the CTC, to observe the use of EITs, including the water board, upon Zubaydah.

74. Based upon this observation, and a subsequent assessment by HQS and the CTC that continued EIT use upon Zubaydah was unnecessary, EITs ceased to be used upon Zubaydah.

**DECLARATION OF JOSE RODRIGUEZ**

(6) Continued Use of the EIT Program and Drs. Mitchell and Jessen's Involvement

75. In early September 2002, I led a delegation to brief the chair and ranking member of the United States House Permanent Select Committee on Intelligence concerning the use of the EITs. All of the previously approved EITs were described in detail and no congressperson expressed any objection to the use of any of the techniques. Follow-up briefings were provided in February 2003. In 2003, I had contact with members from the intelligence committees of both the House and the Senate.

76. Shortly thereafter, the OLC confirmed that its approval of the EITs' use applied not only to Zubaydah, but upon other HVDs as well. The May 27, 2004 Letter from Assistant Attorney General Jack Goldsmith to CIA General Counsel Scott Muller, attached hereto as **Exhibit O**, confirmed the OLC's earlier approval.

77. Thereafter, EIT Program procedures used on Zubaydah were formalized in various documents. For instance, a formal memorandum outlining the EIT Program's general interrogation plan with respect to HVDs, attached hereto as **Exhibit P**, explains that the COB was responsible for the overall management and supervisory duties of the interrogation team and for the specific interrogation plan. Drs. Mitchell and Jessen reported to the COB and did not maintain any supervisory responsibilities or control over the interrogation.

78. In other words, throughout the EIT Program, the CIA always maintained complete control over whether any EIT was used and under what circumstances. Neither Dr. Mitchell nor Dr. Jessen possessed the authority to: (1) apply one or more of the EITs in a manner inconsistent with the interrogation plan; (2) recommence EIT use in the event that use had been discontinued; or (3) use any EIT without authorization or approval from HQS and/or COB.

122. The SSCI Report is an errant, one-sided assault on the CIA's EIT Program that reaches numerous unsupportable and baffling conclusions.

123. Many of the statements within the SSCI Report are simply the opinions of those who drafted the SSCI Report and disputable when taken in proper context of the sited sources documents or other documents not cited.

124. Indeed, the SSCI Report is at times demonstrably inconsistent with the actual events that occurred.

125. For instance, the SSCI Report states that on July 17, 2002, National Security Advisor Condoleezza Rice requested a delay in the approval of the interrogation techniques.

126. In fact, on that date, Rice approved the CIA's use of EITs subject to DOJ approval.

127. Similarly, the SSCI Report claims that the CIA briefed only Committee Chairman Bob Graham and Vice Chairman Richard Shelby on the EIT Program. That statement is misleading.

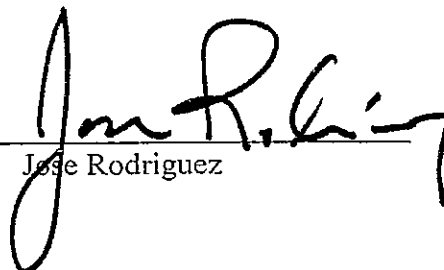
In fact, the CIA was directed by the White House to restrict knowledge of the EIT Program to the leaders of the House and Senate, and the chair and ranking member of the two intelligence committees. The CIA followed this direction and in September 2002 and February 2003 provided full briefings on the EIT Program to all eight of those individuals.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: January 24, 2017

By: \_\_\_\_\_

Jose Rodriguez



DECLARATION OF JOSE RODRIGUEZ