

SUPPLEMENTAL DECLARATION OF SHAYANA KADIDAL

I, Shayana Kadidal, hereby declare as follows:

1. I am an attorney with the Center for Constitutional Rights and, along with others, represent the petitioners in this case, *Center for Constitutional Rights et al. v. United States et al.*, USCA Misc. Dkt. No. 12-8027/AR. I make this supplemental declaration in connection with the Post-Argument Supplemental Brief of Petitioner-Appellants' in support of their application for a writ of mandamus.

2. After the oral argument in this case on October 10, I corresponded with David Coombs, counsel for the defense in the proceedings below. Mr. Coombs informs me that all the courtroom proceedings (excluding, of course, the R.C.M. 802 Conferences) are being recorded on audio. At the end of each session, Mr. Coombs receives a CD with the audio file(s) from the proceedings. Under the trial court's direction, Mr. Coombs is only permitted to use the CD as support for his motions. On occasions, in addition to the audio recording, he reports that there is a court reporter present, who uses either a Dictaphone or stenography to record the proceedings. On those occasions, however, as always, the proceedings are also audio recorded.

3. As described at oral argument (Audio at 59:00), one of the Petitioner-Appellants here, journalist Kevin Gosztola, requested from the OJAG on August 3d thru FOIA the order of the trial judge publicly produced to this Court on that same date by the government. The request is attached hereto. The document has not been produced thru FOIA, some two months later, despite the fact that it has been released to the public through the proceedings before this Court. Indeed, the request has not been responded to, other than to notify Mr. Gosztola that his request was forwarded from the Office of Judge Advocate General (which the government insisted at argument was the FOIA custodian and the "only entity authorized" to control release of docu-

