

**MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA****UNITED STATES OF AMERICA****v.****ABD AL HADI AL-IRAQI****AE 049A****ORDER****Government Motion To
Order LtCol Gleason To An Ex Parte, In
Camera Hearing to Establish His Former
and Current Representational Status of
the Accused****23 July 2015**

1. During a pretrial conference between the parties pursuant to Rule for Military Commissions (RMC) 802 on 19 July 2015, the Defense brought to the Commission's attention the possibility of a conflict of interest involving one of the Accused's previous detailed defense counsel.¹ The issue surfaced when the Prosecution provided the Defense 10 pages of a transcript of a conversation between the Accused and Mustafa Ahmed Adam al Hawsawi dating back to 2007. (Transcript at 607–09). LtCol Sean M. Gleason was detailed to represent the Accused in this case on 30 April 2012. (AE 047). Over the course of his representation, which lasted at least one year, the Accused stated he had numerous privileged conversations with LtCol Gleason. (Transcript at 633). LtCol Gleason currently represents Mr. Hawsawi, the accused in a separate Commission case.² The Accused indicated he never released LtCol Gleason from representing him. (Transcript at 633).

2. The Commission found, after hearing argument, that no conflict existed between the Accused and his currently detailed defense counsel of record, LtCol Jasper and Maj Stirk. (Transcript at 634). However, the Accused requested to speak with LtCol Gleason about his representation prior to continuing with any further proceedings with LtCol Jasper and Maj Stirk as his counsel. (Transcript at 634, 639–40, 642–43). The Accused stated he wished for his currently detailed defense counsel of

¹ See Unofficial/Unauthenticated Transcripts of the Abd al Hadi al-Iraqi Motions Hearings Dated 22 July 2015 at p. 609.

² LtCol Gleason is detailed to represent Mr. Hawsawi in United States v. Khalid Shaikh Mohammad, et al.

record, LtCol Jasper and Maj Stirk, to continue to represent him, at this time, but only for the purpose of filing notices with the Commission in furtherance of resolving the potential conflict issue.

(Transcript at 643–44).

3. In AE 049, the Prosecution requested the Commission to “order LtCol Gleason to report to a Secure Video Teleconference (SVTC) location in the United States to conduct an *in camera, ex parte* inquiry, with the Court Security Officer present, between the Military Judge, LtCol Gleason, LtCol Jasper, Major Stirk and the Accused to ascertain the exact nature of LtCol Gleason’s past and current representation of Mr. Hadi al-Iraqi.” (AE 049 at 1). The Prosecution request is **DENIED**.

4. During the 22 July 2015 hearing, the Military Judge ordered the parties to facilitate a meeting between the Accused and LtCol Gleason. (Transcript at 637–38, 643–44). During a 23 July 2015, RMC 802 pretrial conference, the Commission indicated it would issue an order outlining LtCol Gleason’s responsibilities to this Commission and the Accused in this case.

The Commission orders:

a. Not later than 7 August 2015, LtCol Gleason will file a pleading through LtCol Jasper and Maj Stirk setting forth his intended schedule to, by no later than 24 August 2015, conference with the Accused and, if necessary, Mr. Hawsawi with a view to resolving potentially conflicting representational duties, OR show cause as to why he is ethically precluded from speaking with the Accused and / or Mr. Hawsawi concerning these matters.

b. Not later than 25 August 2015, LtCol Gleason, having conferenced with the Accused and / or Mr. Hawsawi, as necessary, will file a notice pleading through LtCol Jasper and Maj Stirk setting forth any evidence of the resolution of any conflicts between the Accused and / or Mr. Hawsawi.

c. The Office of the Chief Defense Counsel will provide the Commission, through LtCol Jasper and Maj Stirk, all memoranda or notices detailing and / or excusing LtCol Gleason from further representation of the Accused in this case and detailing LtCol Gleason to represent Mr.

Hawsawi. This includes historical documents and documents prepared in the course of resolving any potential conflict pursuant to this order.

5. All pleadings and notices pursuant to this order may be filed *ex parte* and under seal as necessary to protect any privileged communications.

So ORDERED this 23rd day of July 2015.

//s//
J. K. WAITS
CAPT, JAGC, USN
Military Judge