

UNCLASSIFIED//FOR PUBLIC RELEASE
MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA

UNITED STATES OF AMERICA

v.

ABD AL HADI AL-IRAQI

AE 055A

ORDER

(Compressed Briefing Schedule)

Defense Motion For a Continuance

27 April 2016

1. In an e-mail to the Trial Judiciary Staff, the Defense stated they intend to file a motion to continue the 17–18 May 2016 hearing no later than 3:55 PM on Friday, 29 April 2016. (Attachment A). In a follow-up e-mail, the Government requested a decision on the expected Defense motion for a continuance no later than 8 May 2016. (Attachment A).

2. Due to the Defense’s stated intent to file a motion to continue, and the close proximity of the 17–18 May 2016 hearing, the Commission orders the following deadlines:

Not later than 4:00 PM, Friday, 29 April 2016—Deadline for the Defense to file a motion for a continuance for the 17–18 May 2016 hearing.

Not later than 4:00 PM, Monday, 9 May 2016—Deadline for the Government to file a response to Defense motion to continue.

The Defense will not have an opportunity to file a reply.

3. If the Government desires a ruling by 8 May 2016, they must include this request and justification in their response and file no later than **5 May 2016**.

So **ORDERED** this 27th day of April 2016.

Attachment:

A. US v. Abd al Hadi al-Iraqi - Proposed Motions Deadline – Email.

//s//

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

A

From: BRIANVS
To: [REDACTED] Capt USMC (US); Kincaid, Robert T III MAJ USARMY OSD OMC (US); Kincaid, Robert T III MAJ USARMY OSD OMC (US); OSD Pentagon OMC List Trial Judiciary
Cc: MLA DD - OMC Defense Team Hadi al Iraqi; Kincaid, Robert T III MAJ USARMY OSD OMC (US); Rushforth, Brent N CIV (US); Baker, John G BGen USMC (US); Martins, Mark S BG USARMY OSD OMC OCP (US); [REDACTED] TSgt USAF OSD OMC (US); FELICEJV; Flynn, Kevin L CDR USN OSD OMC OCP (US); Kevin L Flynn; KRISTYNM; LINDSERS; [REDACTED] SFC USARMY (US)
Subject: RE: [Non-DoD Source] U.S. v. Abd al Hadi al-Iraqi - Proposed Motions Deadline
Date: Tuesday, April 26, 2016 5:05:54 PM

Capt [REDACTED],

Despite Defense's assertion, the location where they are meeting their client tomorrow is literally right across the street from a place where they could go for a telephonic 802 conference. Such a conference would not interfere with their ability to meet with their client. All counsel have previously met with the Accused, except for Mr. Rushforth, and there is no requirement that all counsel be present at a particular 802 conference. The Government respectfully requests that the Trial Judiciary forward the request to CAPT Waits and let him decide whether the Defense can take less than 45 minutes out of their day to discuss logistical matters. Alternatively, the Government respectfully requests the compressed schedule not allow the Defense a reply briefing, given the lateness of the filing, and afford the Commission the opportunity to render a decision NLT 8 May 2016. The Government is scheduled to expend significant resources transporting support personnel ahead of the scheduled hearing, thus any decision to cancel the hearing by the Commission after 8 May would result in needless funds wasted and personnel stranded.

Respectfully,
 LCDR Spencer

-----Original Message-----

From: [REDACTED] Capt USMC (US) [REDACTED]
Sent: Tuesday, April 26, 2016 4:52 PM
To: Kincaid, Robert T III MAJ USARMY OSD OMC (US) <robert.t.kincaid.mil@osd.pentagon.mil>; BRIANVS <brianvs@osd.pentagon.mil>; Kincaid, Robert T III MAJ USARMY OSD OMC (US) <robert.t.kincaid.mil@osd.pentagon.mil>; OSD Pentagon OMC List Trial Judiciary <osd.pentagon.OMC.list.trial-judiciary@osd.pentagon.mil>
Cc: MLA DD - OMC Defense Team Hadi al Iraqi <MLADD-OMCDefenseTeamHadiAlIraqi@osd.pentagon.mil>; Kincaid, Robert T III MAJ USARMY OSD OMC (US) <robert.t.kincaid.mil@osd.pentagon.mil>; Rushforth, Brent N CIV (US) <brushforth@mckoolsmith.com>; Baker, John G BGen USMC (US) <john.baker@usmc.mil>; Martins, Mark S BG USARMY OSD OMC OCP (US) <mark.s.martins.mil@army.mil>; [REDACTED] TSgt USAF OSD OMC (US) [REDACTED]; FELICEJV <felicejv@af.mil>; Flynn, Kevin L CDR USN OSD OMC OCP (US) <kevin.l.flynn4.mil@navy.mil>; Kevin L. Flynn <KEVINLF@navy.mil>; KRISTYNM <kristynm@army.mil>; LINDSERS <LINDSERS@army.mil>; [REDACTED] SFC USARMY (US) [REDACTED]
Subject: RE: [Non-DoD Source] U.S. v. Abd al Hadi al-Iraqi - Proposed Motions Deadline

Good Evening Ladies and Gentlemen,

Based on the Defense's proffer, there will not be an 802 conference tomorrow. The Commission will issue a compressed briefing schedule for the forthcoming Defense continuance request.

Very Respectfully,
 Capt [REDACTED]
 Staff Attorney - Trial Judiciary
 Office of Military Commissions
 [REDACTED]

-----Original Message-----

UNCLASSIFIED//FOR PUBLIC RELEASE

From: Kincaid, Robert T III MAJ OSD OMC Defense [mailto:Robert.Kincaid@██████████]
Sent: Tuesday, April 26, 2016 4:30 PM
To: ██████████ Capt USMC (US); BRIANVS; Kincaid, Robert T III MAJ USARMY OSD OMC (US);
OSD Pentagon OMC List Trial Judiciary
Cc: MLA DD - OMC Defense Team Hadi al Iraqi; Kincaid, Robert T III MAJ USARMY OSD OMC (US);
Rushforth, Brent N CIV (US); Baker, John G BGen USMC (US); Martins, Mark S BG USARMY OSD OMC OCP
(US); ██████████ TSgt USAF OSD OMC (US); FELICEJV; Flynn, Kevin L CDR USN OSD OMC
OCP (US); Kevin L. Flynn; KRISTYNNM; Spitler, Lindsey Off-site; ██████████ SFC USARMY (US)
Subject: RE: [Non-DoD Source] U.S. v. Abd al Hadi al-Iraqi - Proposed Motions Deadline
Importance: High

CPT ██████████

Would you kindly advise Judge Waits that the Defense team is unavailable until after 1730 on Tuesday, 27 April 16 and after 1730 on Thursday, 28 April 16. This is because we are at GTMO meeting with our client between 0900 and 1700 (estimated hours). Friday, 29 April is a travel day, so we will not be available that day either.

This week's meetings between the Defense team and our client are the first meetings between the Accused and Mr. Rushforth, the new Pro Bono attorney who will use them to try to form an attorney client privilege with him.

FYI, today we advised the government that we intend to file our motion for a continuance no later than 1555 on Friday, 29 April.

MAJ K

Robert T. Kincaid, III
Military Commissions Defense Organization
Office of Military Commissions
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