

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

UNITED STATES OF AMERICA

v.

ABD AL HADI AL-IRAQI

AE 055G

RULING

Defense Motion For A Continuance

12 May 2016

1. On 4 January 2016, the Defense requested a continuance of “no less than eighteen months to prepare for trial.” (AE 015K at 1). The Commission docketed this Defense request to be argued during the 26–27 January 2016 hearing. (AE 054). In AE 054A,¹ the Defense requested “a delay of the January hearing, consistent with its Motion for a Continuance, AE 015K, to allow Mr. Rushforth to not only receive his security clearance, but also to be granted access to and meet with his client and travel to Guantanamo Bay, Cuba.” (AE 054A at 1). The Commission granted the Defense request to continue the January hearing. (AE 054D). In AE 055E, the Defense requested “a complete abatement (or at least a continuance) of the currently scheduled May 2016, hearing, consistent with its Motion for a Continuance, AE 015K, to allow Mr. Rushforth sufficient time to actually review the classified evidence against the Accused.” (AE 055E at 1). The Defense also argued “three additional justifications for a complete abatement (or at least a continuance) of the proceedings.” (AE 055E at 2). The Government response argued the Defense failed to meet the burden of establishing, “(1) ‘reasonable cause’ to abate or continue the May 2016 hearing or (2) that the requested abatement or continuance constitutes ‘reasonable delay.’” (AE 055F at 1–2).

2. Mr. Hadi al-Iraqi has three military defense counsel and one civilian attorney. All three military defense counsel have had the required security clearances to meet with Mr. Hadi al-Iraqi since October 2015. (*See* AE 053C, Att. B). Mr. Brent Rushforth, the civilian attorney, gave his notice of appearance to the Commission on 17 December 2015. (AE 007E). Mr. Rushforth received the

¹ AE 054A was filed on 19 January 2016.

required security clearance on 6 April 2016 and met with Mr. Hadi al-Iraqi on 27 and 28 April 2016. (AE 055E at 2; AE 053K). Each of the four defense counsel have the required security clearances and have met with Mr. Hadi al-Iraqi. The basis for the Defense continuance request in AE 054A is therefore moot. Mr. Rushforth will have had the required security clearances for over five weeks at the start of the May 2016 hearing. The May 2016 hearing is limited to presentation of evidence, if any, and oral argument on AE 015K, the Defense motion to continue all proceedings which has been pending since 4 January 2016.

3. Under Rule for Military Commissions 906(b)(1), the military judge should grant a continuance upon a showing of reasonable cause by a party. *See* R.M.C. 906(b)(1) discussion. The Defense has failed to meet this burden.

4. The Defense request to continue the 17–18 May 2016 hearing is **DENIED**.

So ORDERED this 12th day of May 2016.

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