

**MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY, CUBA**

<b>UNITED STATES OF AMERICA</b>  <b>v.</b>  <b>ABD AL HADI AL-IRAQI</b>	<b>AE 096A</b>  <b>Third Party Filing:</b> <b>Mr. al Darbi's Notice of Assertion of</b> <b>Privilege and Intent to Respond to AE 096</b>  <b>21 August 2017</b>
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**1. Qualification to File.**

We, the undersigned attorneys, represent Mr. Ahmed Mohammed Ahmed Haza al Darbi, the accused in a separate military commission and a deponent by order of this Commission, whose testimony may subsequently be offered into evidence. We are all members in good standing of the bar of the highest court of a state of the United States and have met all the qualifications and detailing requirements, set forth in the Regulation for Trial by Military Commission (R.T.M.C.), to practice before military commissions.

**2. Timeliness.**

This notice is filed timely pursuant to Military Commissions Trial Judiciary Rule of Court 3.7.c.

**3. Notice.**

Mr. al Darbi hereby asserts that any of his communications with a psychotherapist or psychotherapist's assistant contained in the records requested by the Defense in AE 096 are privileged under M.C.R.E. 513. Mr. al Darbi has not waived this privilege. Mr. al Darbi hereby gives notice that he intends to file a response to AE 096 within the time allowed by R.C. 3.7.d(1).

**4. Legal Basis for Third Party Filing.**

In AE 096, the Defense seeks to compel production of Mr. al Darbi's privileged mental health records. Mr. al Darbi is entitled to be heard on this matter pursuant to M.C.R.E. 513(e)(2) and *LRM v. Kastenber*, 72 M.J. 364, 369-71 (C.A.A.F. 2013).

**5. List of attachments.**

A. Certificate of Service, dated 21 August 2017.

Respectfully submitted,

/s/  
Prof. Ramzi Kassem  
Civilian Defense Counsel  
Main Street Legal Services, Inc.  
City University of New York School of Law  
2 Court Square  
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Scott W. Medlyn, Maj, USAF  
Detailed Defense Counsel

LCDR Greg Young, JAGC, USN  
Assistant Defense Counsel

Maj James D. Valentine, USMC  
Resource Counsel

# ATTACHMENT A

Filed with TJ  
21 August 2017

Appellate Exhibit 096A (al Hadi)  
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**CERTIFICATE OF SERVICE**

We certify that, on 21 August 2017, we filed **AE 096A, Third Party Filing: Mr. al Darbi's Notice of Assertion of Privilege and Intent to Respond to AE 096**, with the Military Commissions Trial Judiciary and served a copy on counsel for the Government and the Defense.

/s/

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