

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

UNITED STATES OF AMERICA

v.

**ABD AL RAHIM HUSSAYN
MUHAMMAD AL NASHIRI**

AE 045KK

ORDER

**3rd AMENDED LITIGATION
SCHEDULE ORDER**

15 SEPTEMBER 2014

1. The Accused is charged with multiple offenses in violation of the Military Commissions Act of 2009, 10 U.S.C. §§ 948 et seq., Pub. L. 111-84, 123 Stat. 2574 (Oct. 28, 2009)(hereafter “2009 MCA”). He was arraigned on 9 November 2011.
2. On 9 May 2014, this Commission issued AE 045FF, an order revising deadlines and milestones in the litigation of this case. Specifically, the Commission set deadlines of 1 July 2014 for submission of law motions, did not set a date for completion of discovery related to the Rendition, Detention, and Interrogation Program (AE 120), and maintained the following dates: 27 May 2014 as the date for completion of discovery related to the definition of “hostilities;” 30 September 2014 as the date for submission of evidentiary motions, proposed *voir dire* and member questionnaires, and the provision of a copy of the Military Commission Convening Order to the Defense; 15 October 2014 as the date for submission of lists of witnesses, evidence and exhibits; and, 25 November 2014 as the date for submission of proposed instructions. In the same order, *voir dire* and seating of the panel was to begin on 5 January 2015 with trial to begin on 9 February 2014.
3. With the passage of time and the occurrence of numerous events, including the litigation seeking reconsideration and clarification of the Commission’s order in AE 120C¹ which resulted

¹ ORDER, Defense Motion to Compel Discovery of Information in the Possession of Any Foreign Government and the United States Related to the Arrest, Detention, Rendition and Interrogation of the Accused, issued 14 April 2014.

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in the publication of AE 120AA²; the on-going provision of discovery pursuant to that order; the efforts of the Prosecution to secure a copy of the Senate Select Committee on Intelligence's Report on the Central Intelligence Agency's Rendition, Detention, and Interrogation Program; and, the necessity for the Commission to review voluminous requests for summarization, substitution and other relief under Military Commission Rule of Evidence 505 submitted by the Prosecution, the Commission finds it necessary and appropriate to suspend the prescribed milestones set out in AE 045FF, except the requirement to provide notice to the Commission describing why outstanding or new discovery, other than discovery ordered in the AE 120 series, was not provided prior to 30 September 2013.³ The completion date for discovery related to the definition of "hostilities" expired. A timeline for the provision of discovery responsive to AE 120AA requested by the Defense in AE 120BB⁴ will be published separately.

4. The Commission will conduct hearings 6-10 October 2014; 3-7 November 2014; and, 8-12 December 2014 as ordered in AE 203D⁵ in furtherance of resolving law, discovery and evidentiary motions filed by the parties.

So **ORDERED** this 15th day of September, 2014.

//s//
VANCE H. SPATH, Colonel, USAF
Military Judge
Military Commissions Trial Judiciary

² Government Motion To Reconsider AE 120C In Part So The Commission May Take Into Account Declassification Efforts Underway At Prior Prosecution Request, Clarify The Discovery Standard The Commission Is Applying, And Safeguard National Security While Ensuring A Fair Trial, issued 24 June 2014.

³ 30 September 2013, was the original completion date for the provision of discovery per AE 045H ORDER, Government Motion For A Scheduling Order, issued 21 August 2013.

⁴ Defense Motion For The Commission To Order A Timeline For The Provision Of Discovery Related To AE120, filed 11 July 2014.

⁵ Scheduling Order, issued 2 June 2014.