

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

UNITED STATES OF AMERICA

v.

ABD AL RAHIM HUSSAYN
MUHAMMAD AL NASHIRI

AE 205HH

RULING

DEFENSE MOTION TO REARGUE:

DEFENSE MOTION TO ABATE THE
PROCEEDINGS UNTIL THE
ACCUSED RECEIVES ADEQUATE
MEDICAL CARE

9 MARCH 2015

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). He was arraigned on 9 November 2011.

2. The Defense in AE 205BB requests the Commission “hold another evidentiary hearing under Rules for Military Commissions (‘R.M.C.’) 803(a) and 905(h) to hear additional testimony and argument on AE205.” (AE 205BB at 1). The Defense argued “[t]he issue here is whether the accused is being consciously denied treatment for serious mental health conditions. . .” and that it requires “a factual assessment of the quality of the mental health treatment he is being given, whether protocols are in place to ensure that his treatment is responsive to his health needs, and whether a policy or practice is in place of deliberately ignoring certain mental health conditions, as well as their causes, and appropriate treatment.” *Id.* at 5. The government requested “the Commission deny the defense motion . . . [as it is] unnecessary and cumulative.” (AE 205CC at 1). Both parties agreed the “deliberate indifference” test established by the Supreme Court in *Estelle v. Gamble*, 429 U.S. 97 (1976), remains the appropriate standard for the Commission to apply in resolving the issue at hand.

3. The Commission finds an additional evidentiary hearing or additional argument on this matter to be unnecessary. Accordingly, AE 205BB is **DENIED**.

So **ORDERED** this 9th day of March, 2015.

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