

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

<p>UNITED STATES OF AMERICA</p> <p>v.</p> <p>ABD AL RAHIM HUSSAYN MUHAMMAD AL NASHIRI</p>	<p>AE 272F</p> <p>RULING</p> <p>AE 272D: GOVERNMENT MOTION FOR RECONSIDERATION AND CLARIFICATION OF: AE 272C - RULING - DEFENSE MOTION FOR APPROPRIATE RELIEF: INQUIRY INTO THE EXISTENCE OF A CONFLICT OF INTEREST BURDENING COUNSEL'S REPRESENTATION OF THE ACCUSED BASED ON ONGOING EXECUTIVE BRANCH INVESTIGATIONS</p> <p>9 MARCH 2015</p>
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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 Government filed AE 272D requesting “the Commission rescind paragraph (d) of its Order in AE 272C (‘the Order’). Specifically, the government request[ed] the Commission rescind its direction that advance notice is provided of any future ‘law enforcement or intelligence investigation’ of any member of the Al Nashiri defense team, ‘includ[ing] a proposal for Commission approval as to the segregation of information gathered as part of the investigative effort.’” (AE 272D at 1). In the alternative, the Government requested the Commission provide “clarification of this Order and the issuance of a protective order preventing the unauthorized disclosure of classified information.” *Id.* The Defense response (AE 372E), requested the “Commission deny any relief requested by the Government in AE 272D”. (AE 372E at 1). A reply was not filed. There was no oral argument on the motion.

3. The Government understands the intent of the Commission. “The government presumes the Commission intended a far narrower scope, specifically that the government and the FBI undertake reasonable procedures to notify the Commission of any future criminal investigations initiated against any known member of the defense team related to his or her activities as a defense team members in this case.”(AE 272D at 11). Should the Prosecution need additional clarification, it should consult with the Trial Judiciary Staff Director.

The Government’s Motion for Reconsideration and Clarification of AE 272C is **DENIED**.

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

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