

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 334D</p> <p>RULING</p> <p>DEFENSE MOTION FOR APPROPRIATE RELIEF – TO ALLOW MR. AL NASHIRI TO GROOM PRIOR TO COURT SESSIONS & MEETINGS WITH HIS DEFENSE TEAM</p> <p>12 MAY 2015</p>
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1. On 30 January 2015, the Defense filed AE 334,¹ requesting the Military Commission order the detention facility to allow the Accused “to attend court and meetings with his lawyers in a clean, kempt and dignified manner.” (AE 334 at 4). The Government response requested the Military Commission deny the motion and show the detention facility deference, citing *Turner v. Safley*, 482 U.S. 78 (1987). (AE 334A at 1). The Government informed the Defense the grooming/shaving policy allows the Accused to groom himself and shave every week like other high value detainees. The Government noted the command allowed several exceptions to this policy. (AE 334A at 1-2). Hoping to avoid litigation,¹ the Government reported the command would allow the Accused to have access to an electric shaver before every attorney-client meeting and court appearance. (AE 334A at 2). Oral argument on the motion was deferred during the February 2015 session because it appeared the issue was resolved without the Commission’s involvement.²

2. On 21 April 2015, the Commission ordered the Government to “consult with the Defense and update the Commission as to the resolution of the Defense’s concerns over the continued ability

¹ AE 334, Defense Motion for Appropriate Relief to Allow Mr. al-Nashiri to Groom Prior to Court Sessions and Meeting with His Defense Team, dated 30 January 2015.

² See Unofficial/Unauthenticated Transcript of the al Nashiri (2) Motions Hearing Dated 23 February 2015 from 1:02 P.M. to 2:52 P.M. at p. 5388 and Unofficial/Unauthenticated Transcript Dated 3 March 2015 from 1:34 P.M. to 2:43 P.M. at pp 6095-98.

of the Accused to shave prior to attorney meetings and sessions of this Commission[.]” (AE 334B at 2). On 1 May 2015, after conferring with the Defense, the Government submitted a Status Update. (AE 334C). The Government informed the Commission the United States Southern Command (SOUTHCOM) updated the grooming policy, which would allow the Accused to shave daily for up to ten minutes, unless the Accused is in a disciplinary status. If placed in a disciplinary status, the Accused would be allowed to shave with an electric razor once per month and before all scheduled Commission hearings. The Government noted the Defense’s representation that the Accused was afforded the opportunity to groom himself before all attorney-client meetings, but pointed out that the Defense felt the Accused was given insufficient time to groom himself on one occasion. (AE 334C at 1-2).

3. Considering the new SOUTHCOM grooming policy and the representations of both parties that the Accused is and will be permitted to shave prior to all attorney-client meetings and Commission appearances, the Commission finds AE 334 is **MOOT**.

So **ORDERED** this 12th day of May, 2015.

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