

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

UNITED STATES OF AMERICA

v.

KHALID SHAIKH MOHAMMAD, WALID
MUHAMMAD SALIH MUBARAK BIN
'ATTASH, RAMZI BIN AL SHIBH, ALI
ABDUL-AZIZ ALI, MUSTAFA AHMED
ADAM AL HAWSAWI

AE 007-2 (MFL)(KSM)

**Motion for Extension of Time
to File a Response to AE 007I(GOV)**

16 May 2019

1. Timeliness.

This motion is timely filed.

2. Relief Sought.

Mr. Mohammad requests an extension of time until 24 May 2019 to file a response to AE 007I (GOV), Government Motion For Public Access To Open Proceedings of This Military Commission Via Closed-Circuit Television Transmission.

3. Facts.

a. On 10 May 2019, the prosecution filed AE 007I (GOV), Government Motion for Public Access to Open Proceedings of this Military Commission Via Closed Circuit Television Transmission.

b. Pursuant to RC 7(d)(1), Mr. Mohammad expected that any response would be due within 14 days.

c. On 14 May 2019, the Military Judge issued AE 007J, Expedited Briefing Order, requiring any defense response be filed three days hence, by 17 May 2019.

d. Learned Counsel for Mr. Mohammad has previously-scheduled travel plans making him unavailable two of those three days.

4. Law and Argument.

The Military Judge should extend the defense time to reply until 24 May 2019, the original due date.

As Mr. Mohammad indicated in his conference response, he does not oppose the narrow relief requested, however the prosecution motion as filed touches on significant issues of public access, an issue that drew the attention of Congress, and ultimately resulted in Congressional intervention requiring an investigation by the General Accounting Office.¹ Mr. Mohammad seeks an extension of time to fully address all issues included in the Government's proposed order and, importantly, to allow Learned Counsel to participate in the formulation of the response.

Further, Mr. Mohammad joins the arguments made by Mr. al Baluchi in AE 007-1 (AAA),² including specifically, his final point:

Finally, there is no emergent need for expedited briefing. . . . With a 24 May 2019 response date, the briefing cycle will be fully complete in time for argument at the June hearing. The government notes in AE007I that the first date of Pentagon viewing availability is likely to be 29 July 2019.

Accordingly, an extension of time to the original due date will not create any delay.

5. Conference.

On 16 May 2019, counsel for Mr. al Baluchi requested the position of the government on Mr. al Baluchi's motion for extension. The government stated "[t]he Prosecution defers to

¹ *DOD Should Assess the Tradeoffs Associated With Expanding Public Access to and Information About Terrorism Trials*, GAO-19-283, General Accounting Office, published Feb 12, 2019, publicly released Feb 12, 2019, available at <https://www.gao.gov/products/GAO-19-283>.

² AE 007-1(MFL)(AAA), Mr. al Baluchi's Motion For an Extension of Time to File a Response to AE007I, 16 May 2019.

the Military Judge, as he is the one who issued the expedited briefing order.” Upon further inquiry by counsel for Mr. Mohammad, the prosecution stated the government’s position is the same for the present motion.

6. Oral Argument.

Oral argument is not requested on this Motion for Extension of Time, however Mr. Mohammad will request oral argument on AE 007I (GOV).

7. Witness and Evidence.

None at this time.

8. List of attachments.

A. Certificate of Service

Respectfully submitted,

//s//
DAVID Z. NEVIN
Learned Counsel

//s//
GARY D. SOWARDS
Defense Counsel

//s//
DEREK A. POTEET
LtCol, U.S. Marine Corps
Defense Counsel

//s//
RITA J. RADOSTITZ
Defense Counsel

Counsel for Mr. Mohammad

ATTACHMENT A

CERTIFICATE OF SERVICE

I certify that on the 16th of May 2019, I electronically filed AE 007-2 (MFL)(KSM) Motion for Extension of Time to File a Response to AE 007I (GOV), with the Chief Clerk of the Military Commissions Trial Judiciary and served the foregoing on all counsel of record by electronic mail.

//s//
DAVID Z. NEVIN
Learned Counsel