

UNCLASSIFIED//FOR PUBLIC RELEASE
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

AE524-30 (MFL)(AAA)

Mr. al Baluchi's Motion for Leave
To File a Supplement to Mr. al Baluchi's
Response to Government Motion to Reconsider
and Clarify AE524LL Ruling

9 January 2019

1. **Timeliness:** This motion is timely filed.
2. **Affirmative Statement:** The supplemental filing will contain facts and argument that were unavailable at the time of the original filing.
3. **Relief Sought:** Mr. al Baluchi requests leave to file a supplement to AE524RR (AAA) Mr. al Baluchi's Response to Government Motion to Reconsider and Clarify AE524LL Ruling.
4. **Burden of Proof:** The defense bears the burden of persuasion.
5. **Facts:**
 - a. On 26 September 2018, Mr. al Baluchi filed AE524RR (AAA) Mr. al Baluchi's Response to Government Motion to Reconsider and Clarify AE524LL Ruling.
 - b. Oral argument was heard by the military commission on AE524 during the November 2018 hearing.
 - c. On 8 January 2019, members of Mr. al Baluchi's legal team conducted an interview with F1G, a former employee of the CIA, pursuant to Protective Order #4. F1G provided information contradicting the government's factual assertions regarding the implementation of Protective Order #4.

6. **Argument:**

Rule of Court 3(5)(e) permits supplemental filings to add new facts, not known at the time of filing to an existing motion. Mr. al Baluchi's supplement will contain facts not available to defense at the time of filing AE524RR, and will further demonstrate the government's efforts to prevent the defense from properly investigating the CIA RDI program. Mr. al Baluchi therefore requests leave to file a supplement.

7. **Request for Oral Argument:** None.

8. **Request for Witnesses:** None.

9. **Conference with Opposing Counsel:** The government stated the following position: "The Prosecution opposes any supplements in the AE 524 series at this point in the litigation."

10. **Attachments:**

A. Certificate of Service

Very respectfully,

//s//

JAMES G. CONNELL, III
Learned Counsel

//s//

STERLING R. THOMAS
Lt Col, USAF
Defense Counsel

//s//

ALKA PRADHAN
Defense Counsel

//s//

BENJAMIN R. FARLEY
Defense Counsel

//s//

MARK E. ANDREU
Capt, USAF
Defense Counsel
Counsel for Mr. al Baluchi

Attachment A

CERTIFICATE OF SERVICE

I certify that on the 9th day of January, 2019, I electronically filed the foregoing document with the Clerk of the Court and served the foregoing on all counsel of record by email.

//s//

JAMES G. CONNELL, III

Learned Counsel