

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

UNITED STATES OF AMERICA v. KHALID SHAIKH MOHAMMAD; WALID MUHAMMAD SALIH MUBARAK BIN ‘ATTASH; RAMZI BINALSHIBH; ALI ABDUL AZIZ ALI; MUSTAFA AHMED ADAM AL HAWSAWI	AE 538P (GOV)/AE 561K (GOV) Government Motion To Withdraw AE 538O (GOV Sup)/ AE 561J (GOV Sup) 23 April 2019
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1. Timeliness

This Motion is timely filed pursuant to Military Commissions Trial Judiciary Rule of Court (“R.C.”) 3.7.

2. Relief Sought

The Prosecution respectfully requests to withdraw AE 538O (GOV Sup)/AE 561J (GOV Sup) due to an administrative error by with regard to the provided filing designation.

3. Burden of Proof

As the moving party, the Prosecution must demonstrate by a preponderance of the evidence that the requested relief is warranted. R.M.C. 905(c)(1)–(2).

4. Facts

On 19 April 2019, the Prosecution filed AE 538O (GOV Sup)/AE 561J (GOV Sup), an *ex parte, in camera*, under seal classified filing pursuant to M.C.R.E. 505.

On 22 April 2019, the Trial Judiciary notified the Prosecution that there had been an administrative error with the provided filing designation.

5. Law and Argument

The Prosecution respectfully requests to withdraw AE 538O (GOV Sup)/AE 561J (GOV Sup). If this request is granted, the Prosecution will re-file an identical pleading seeking the same relief under a new filing designation in the AE 538/AE 561 motion series.

6. Oral Argument

The Prosecution does not request oral argument.

7. Witnesses and Evidence

The Prosecution will not rely on any witnesses or additional evidence in support of this motion.

8. Conference with Opposing Party

Based on the nature of the administrative error, the Trial Judiciary indicated on 22 April 2019 that the requirement for conference under R.C. 3.5.k has been waived for this motion.

9. Additional Information

The Prosecution has no additional information.

10. Attachments

A. Certificate of Service, dated 23 April 2019

Respectfully submitted,

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Clay Trivett
Managing Trial Counsel

Christopher M. Dykstra
Major, USAF
Assistant Trial Counsel

Mark Martins
Chief Prosecutor
Military Commissions

ATTACHMENT A

CERTIFICATE OF SERVICE

I certify that on the 23rd day of April 2019, I filed AE 538P (GOV)/AE 561K (GOV), Government Motion To Withdraw AE 538O (GOV Sup)/AE 561J (GOV Sup), with the Office of Military Commissions Trial Judiciary and I served a copy on counsel of record.

//s//

Christopher M. Dykstra
Major, USAF
Assistant Trial Counsel