## MILITARY COMMISSIONS TRIAL JUDICIARY GUANTANAMO BAY, CUBA

#### UNITED STATES OF AMERICA

**AE 575J (GOV)** 

v.

**Government Motion**To Withdraw AE 575 (GOV)

KHALID SHAIKH MOHAMMAD; WALID MUHAMMAD SALIH MUBARAK BIN 'ATTASH; RAMZI BINALSHIBH; ALI ABDUL AZIZ ALI; MUSTAFA AHMED ADAM AL HAWSAWI

19 March 2019

#### 1. <u>Timeliness</u>

This Motion is timely filed pursuant to Military Commissions Trial Judiciary Rules of Court ("R.C.") 3.7.

#### 2. Relief Sought

The Prosecution respectfully requests that this Commission permit the Prosecution to withdraw AE 575 (GOV).

#### 3. Burden of Proof

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

#### 4. Facts

On 5 June 2018, the Prosecution filed AE 575 (GOV) requesting a conclusion of law and other appropriate relief.

On 17 August 2018, Defense counsel for Messrs. Mohammad, Bin 'Attash, Binalshibh, Ali, and Hawsawi filed AE 575A (AAA) and AE 575B (KSM, WBA, RBS, MAH) in response to AE 575 (GOV).

On 31 August 2018, the Prosecution filed a consolidated reply to the Defense responses. *See* AE 575D (GOV).

#### 5. Law and Argument

Upon further consideration of the issues set forth in the AE 575 motion series, the Prosecution respectfully requests to withdraw AE 575 (GOV).

#### 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

On 15 March 2019, the Prosecution consulted with the Defense regarding the instant motion to withdraw. Defense counsel Mr. Ali stated, "Given [Mr. Ali's] position in AE 575A that the government's motion is premature, [Mr. Ali] consents to the government's request to withdraw AE 575." Counsel for Mr. Hawsawi stated that they do no oppose the requested relief. Defense counsel for Messrs. Mohammad, Bin 'Attash, and Binalshibh did not respond within the 24-hour timeframe established by Military Commissions Trial Judiciary Rule of Court 3.5.k.

#### 9. Additional Information

The Prosecution has no additional information.

#### 10. Attachments

A. Certificate of Service, dated 19 March 2019

Respectfully submitted,

//s//

Clay Trivett

Managing Trial Counsel

Mark Martins Chief Prosecutor Military Commissions

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# **ATTACHMENT A**

### **CERTIFICATE OF SERVICE**

I certify that on the 19th day of March 2019, I filed AE 575J (GOV), Government Motion To Withdraw AE 575 (GOV), with the Office of Military Commissions Trial Judiciary and I served a copy on counsel of record.

<u>//s//</u>

Christopher M. Dykstra Major, USAF Assistant Trial Counsel