

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

AE578E (AAA)

Mr. al Baluchi's Motion
To Schedule 802 Conference for
Tuesday, 23 April 2019

12 February 2019

1. **Timeliness:** This motion is timely filed.
2. **Relief Sought:** Mr. al Baluchi respectfully requests the military commission schedule the RMC 802 conference for the April 2019 hearings on Tuesday, 23 April 2019 rather than Monday, 22 April 2019.
3. **Burden of Proof:** The defense bears the burden of persuasion on the motion; the standard of proof is a preponderance of the evidence.¹
4. **Facts:**
 - a. The military commission has scheduled a hearing for 24 April – 3 May 2019.
 - b. Easter is Sunday, 21 April 2019. Several National Capital Region school systems, including Stafford County, Alexandria City, Montgomery County, and Prince Georges County, have Monday, 22 April 2019 as a student holiday. In Montgomery County, Monday, 22 April is one of only four school holidays allocated for students' Spring Break (17-22 April).
5. **Law and Argument:**

Mr. al Baluchi respectfully requests the military commission to schedule the 802 conference for the April 2019 hearings on Tuesday, 23 April 2019 as opposed to Monday, 22 April

¹ R.M.C. 905(c)(1).

2019. Under the military commission's traditional schedule, the 802 conference is conducted two days before the first day of the hearing. This practice originated as an accommodation to the defense, who wished to discuss the docket order with the defendants prior to court. Although still a consideration, this issue has become less urgent with recent changes to the scheduling practice of the military commission. Furthermore, on this occasion, no defense counsel object to scheduling the April 2019 802 conference for 23 April 2019.

The requested schedule would create the possibility that courtroom participants whose holiday travel schedules would be improved by travel the day after Easter may be able to both travel on the Tuesday, 23 April rotator flight and attend the 802 conference. Of course, travel scheduling and authorization is ultimately under the control of the Convening Authority. On this occasion, however, the military commission can accommodate family travel needs without inconvenience to the military commission or any party.

6. **Request for Oral Argument:** The defense does not request oral argument.

7. **Conference with Opposing Counsel:** The government defers to the discretion of the military commission. Mr. Mohammad, Mr. bin 'Atash, Mr. bin al Shibh, and Mr. al Hawsawi do not object to this proposal.

8. 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 12th day of February, 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