

**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 611P(WBA)

Defense Motion to Decline Joinder to
AE 611N(AAA), Mr. al Baluchi’s Response to
AE611 Amended Supplemental Docket Order
(Updated Proposed Order of March)

24 January 2019

1. **Timeliness:** This motion is timely.
2. **Relief Sought:** Defense counsel for Mr. bin ‘Atash hereby give notice that they do not join AE 611N(AAA), Mr. al Baluchi’s Response to AE 611 Amended Supplemental Docket Order (Updated Proposed Order of March).
3. **Facts and Argument:**
 - a. On 9 January 2019, Mr. bin ‘Atash filed AE 615(WBA), Defense Motion to Conduct Thorough Inquiry into Actual and/or Potential Attorney Conflict of Interest Pursuant to R.M.C. 901 and Holloway v. Arkansas, 435 U.S. 475 (1978) and to Cancel Proceedings Pending Inquiry. This motion detailed that the Military Judge “must conduct a thorough inquiry into the potential conflict” and “cancel the proceedings until assurance can be had that Defense Counsel for Mr. bin ‘Atash are not burdened by conflict.” (AE 615(WBA) at 2).
 - b. On 23 January 2019, Mr. al Baluchi filed AE 611N(AAA) Mr. al Baluchi’s Response to AE611 Amended Supplemental Docket Order (Updated Proposed Order of March). This proposed order of march indicates that argument on the AE 615 series, currently encompassing multiple filings by 9/11 defense teams and the SRT, as well as interim orders, will take place, along with four other motion series, on the first day of hearings, followed by a full week of proceedings on other matters.

c. Defense Counsel for Mr. bin ‘Atash are laboring under a conflict of interest as the result of a Government investigation of the defense team. Until a thorough inquiry is completed and defense counsel are no longer burdened by conflict, proceedings on all other matters in United States v. Walid bin ‘Atash must be cancelled. Therefore, Mr. bin ‘Atash must decline joinder with Mr. al Baluchi’s proposed order of march.

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

5. **Request for Witnesses:** None.

6. **Conference with Opposing Counsel:** No conference required. RC 3.5.i(3).

7. **Attachments:**

A. Certificate of Service

8. **Signatures:**

/s/

CHERYL T. BORMANN
Learned Counsel

/s/

EDWIN A. PERRY
Detailed Defense Counsel

/s/

WILLIAM R. MONTROSS, JR.
Detailed Defense Counsel

/s/

MATTHEW H. SEEGER
MAJ, U.S. Army
Defense Counsel

Attachment A

CERTIFICATE OF SERVICE

I certify that on 24 January 2019, I filed by email with the Trial Judiciary, AE 611P(WBA), Defense Motion to Decline Joinder to AE 611N(AAA), Mr. al Baluchi's Response to AE611 Amended Supplemental Docket Order (Updated Proposed Order of March), and served a copy on all counsel of record.

//s//

CHERYL T. BORMANN
Learned Counsel