

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

<b>UNITED STATES OF AMERICA</b>  <b>v.</b>  <b>KHALID SHAIKH MOHAMMAD; WALID MUHAMMAD SALIH MUBARAK BIN ‘ATTASH; RAMZI BIN AL SHIBH; ALI ABDUL AZIZ ALI; MUSTAFA AHMED ADAM AL HAWSAWI</b>	<b>AE 615-1 (MFL) (GOV SRT)</b>  <b>Special Review Team Motion For Leave To File a Notice of Filing Pursuant to the Commission’s Ruling in AE 613E/615P Out of Time</b>  13 February 2019
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**1. Timeliness**

The Motion by the Special Review Team (SRT) is timely filed pursuant to Military Commissions Trial Judiciary Rule of Court (“R.C.”) 3.7.(d).

**2. Relief Sought**

The SRT respectfully requests the Commission grant the SRT leave to file a Notice attaching redacted versions of the documents filed in AE 613 (GOV), AE 613A (GOV SRT), and AE 613F (GOV SRT), as ordered by the Commission on 25 January 2019 in AE 613E/615P.

**3. Burden of proof**

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

**4. Facts**

On 3 December 2018, pursuant to Amended Order AE 292QQ, filed 16 December 2014, the Prosecution Team filed AE 613 *ex parte, in camera, and under seal* with the Commission.

On 10 January 2019, pursuant to Amended Order AE 292QQ, the Special Review Team (SRT) filed AE 613A *ex parte, in camera, and under seal* with the Commission.

On 25 January 2019, the Commission ordered the SRT to (1) provide redacted versions of filings AE 613 (GOV) and AE 613A (GOV SRT) to the Defense Teams no later than 8

February 2019; (2) obtain a declaration from the “other military organization involved in the investigation regarding their involvement in this investigation” to be filed no later than 8 February 2019; and (3) to provide the aforementioned declaration (with redactions as appropriate) to the Defense Teams no later than 8 February 2019.

On 8 February 2019, the SRT filed a declaration from the Army Counterintelligence Coordinating Authority with the Commission as AE 613F, *ex parte, in camera, and under seal*.

On 8 February 2019, the SRT served upon the defense teams and attempted to file with the Commission AE 615Q, a Notice attaching redacted versions of the declaration from the Army Counterintelligence Coordinating Authority, AE 613 (GOV), AE 613 (GOV SRT).

On 11 February 2019, the SRT was notified by email from the Office of Military Commissions, Trial Judiciary Staff, stating that AE 615Q was rejected because the pleading failed to comply with several Commission rules.

## **5. Law and Argument**

Military Commissions Trial Judiciary Rule of Court 3.7.(d) affords counsel the opportunity to request to file a reply out of time. In this instance, the SRT attempted to file with the Commission a Notice attaching redacted versions of the declaration from the Army Counterintelligence Coordinating Authority, AE 613 (GOV), AE 613 (GOV SRT). However, due to logistical difficulties, the SRT was unable to do so under the circumstances. The SRT now respectfully requests leave of this Commission to file the Notice contemplated by AE 613E/615P out of time. The SRT stands ready to immediately file its corrected pleading with the Trial Judiciary if this request is granted.

## **6. Oral Argument**

The SRT does not request oral argument on this Motion for Leave.

## **7. Witnesses and Evidence**

The SRT does not rely on any witnesses or attachments to support this Motion.

**8. Conference with Opposing Party**

On 12 February 2019, the SRT conferred with the Defense on the instant Motion for Leave. Messrs. Mohammad, Bin ‘Attash, and Ali did not object to the Motion. Counsel for Messrs. Binalshibh and Hawsawi did not respond by the time this motion was filed.

**9. Additional Information**

The SRT has no additional information.

**10. Attachments**

A. Certificate of Service, dated 13 February 2019.

Respectfully submitted,

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Jocelyn Ballantine  
Heidi Boutros Gesch  
Fernando Campoamor-Sánchez  
Kevin Driscoll  
Vijay Shanker

Special Review Team

# ATTACHMENT A

**CERTIFICATE OF SERVICE**

I certify that on the 13<sup>th</sup> Day of February 2019, I filed AE 615-1 (MFL) (GOV SRT) Special Review Team Motion For Leave To File a Notice of Filing Pursuant to the Commission's Ruling in AE 613E/615P Out of Time, and I served a copy on defense counsel of record by electronic mail.

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*//s//*

Heidi Boutros Gesch  
Special Trial Counsel  
Office of Military Commissions