

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

**AE616R (AAA)**

**NOTICE OF ORDER**

By the United States Court of Military  
Commission Review

27 March 2019

1. **Timeliness:** This notice is timely filed.
2. **Notice:** On 27 March 2019, counsel for Mr. al Baluchi received the attached Order from the United States Court of Military Commission Review.
3. **Attachments:**
  - A. Certificate of Service;
  - B. CMCR Order.

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 27th day of March, 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*

# **Attachment B**



**UNITED STATES  
COURT OF MILITARY COMMISSION REVIEW**

Ali Abdul-Aziz Ali,	)	ORDER
AKA Ammar Al Baluchi,	)	
	)	STAY
Petitioner	)	
	)	
v.	)	
	)	
United States,	)	CMCR 19-002
	)	
Respondent	)	March 27, 2019

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**BEFORE:**

**POLLARD, PRESIDING Judge  
HUTCHISON, FULTON, Judges**

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On March 14, 2019, Petitioner Ali Abdul-Aziz Ali, a/k/a Ammar Al Baluchi, filed a petition seeking a writ of mandamus directing the military judge presiding over his commission case to hold a public hearing involving the unclassified testimony of a witness known as the “Interpreter.” The military judge previously denied Petitioner’s motion to take the Interpreter’s unclassified testimony in an open session. On March 15, 2019, Petitioner asked this Court to stay the Interpreter’s testimony until we had ruled on his mandamus petition objecting to the Interpreter’s testimony in a session closed to the public. On March 21, 2019, the military judge denied a motion to continue the hearing date until after this Court ruled on the mandamus petition. *See* AE 616P.

Petitioner’s mandamus petition and stay motion raise serious issues concerning Petitioner’s right to have his case heard in public sessions and for petitioner to be present for the Interpreter’s testimony. Petitioner’s rights, however, are not absolute. A trial or pre-trial session may be closed in appropriate circumstances for national security reasons and to protect the safety of a witness and classified information. Respondent argues that the military judge properly ruled that the Interpreter’s testimony would be taken in a closed session for all of the reasons. Petitioner contends that the Interpreter could testify from behind a screen or from a separate room and transmission of his testimony outside the presence of the public could be delayed enabling the government to safeguard national security, these safety of the witness, and

classified information or that lesser measures than full closure are reasonable. Appellant Br. 10 (Mar. 14, 2019). The amicus briefs support this view on First Amendment grounds. Respondent counters that expedited release of a transcript will meet legal requirements.

We now are on the eve of the Interpreter's testimony. Responded has requested that it take place in a closed session on March 28, 2019, beginning at 9:00 a.m. We received the final briefing regarding the stay motion on March 22, 2019. This gives us insufficient time to adequately address Petitioner's stay motion. The dispute that requires the testimony of this witness has been on going for several years. AE 616P. A brief further delay works no hardship on the government, but will allow this Court to give due consideration to the serious issues before us.

We will enter a temporary stay of the Interpreter's testimony to give this Court adequate time to decide the writ of mandamus. This administrative stay should not be interpreted as expressing any opinion on the merits of the writ petition.

Accordingly,

**IT IS HEREBY ORDERED**, that, subject to further order of this Court, the taking of the Interpreter's testimony is stayed to and including April 29, 2019.

FOR THE COURT:

  
Mark Harvey  
Clerk of Court, U.S. Court of Military  
Commission Review