

**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 653F (6th Amend)

***SIXTH AMENDED*
SCHEDULING ORDER**

5 August 2020

1. On 7 August 2019, the Commission issued AE 653¹ setting forth the hearing schedule for Calendar Year 2020. That scheduling order has been amended five times.²
2. As noted in this Commission’s Interim Orders in the AE 788/639 Series,³ the world-wide COVID-19 Pandemic (Pandemic) continues and remains fluid. In response to the Pandemic, the Commanders of U.S. Naval Station Guantanamo Bay, Cuba (NSGB) and Joint Task Force, Guantanamo Bay have instituted numerous health and welfare-related restrictions (to include quarantine requirements for Commission participants) that make it impracticable for this Commission to hold hearings at the NSGB while these restrictions remain in place.⁴
3. The Commission, therefore, canceled the hearings scheduled to take place in June, July, and August of 2020, and imposed specific reporting requirements on the Government in

¹ AE 653 Scheduling Order, dated 7 August 2019.

² See AE 653F Amended Scheduling Order, dated 31 December 2019 and AE 653F (2nd Amend) *Second Amended* Scheduling Order, dated 20 February 2020; AE 653F *Third Amended* Scheduling Order, dated 9 April 2020, AE 653F *Fourth Amended* Scheduling Order, dated 8 June 2020, and AE 653F *Fifth Amended* Scheduling Order, dated 6 July 2020.

³ See AE 788 (6th Sup)/AE 639HH (5th Sup) *Sixth Supplement to Interim Order, Temporary Extension of Briefing and Litigation Suspense Due to Impacts of Coronavirus COVID-19*, dated 24 July 2020.

⁴ The Commission recognizes the NSGB and JTF Commanders’ obligations to protect the health of the residents of the base and members of the JTF. This ruling is not intended to interfere in any way with their responsibilities in this regard.

order to provide the Commission with information necessary to make timely decisions as to the viability of the remaining 2020 hearings.⁵

4. In regard to the hearings scheduled for 21 September – 2 October 2020, the Government was directed to provide a written update to the Commission not later than 23 July 2020 as to the status of all travel restrictions and/or health and welfare measures applicable to Commission participants traveling to NSGB.⁶

5. On 23 July 2020, the Government informed the Commission that the current quarantine requirements remain in effect at NSGB.⁷ The Government also provided notice that it was in the process of “formulating a plan for the responsible resumption of hearings while assuring appropriate safeguards to Commission participants and those already aboard NSGB.”⁸ Attachments within the Government pleading indicate that the Government “intends to file a motion seeking to consolidate the remaining 2020 Commission hearing dates into one session.”⁹ As of today’s date, the Government has filed no such motion.

6. Due to the planning requirements and the need for the deployment of an advance party,¹⁰ the Commission deems it necessary to make a decision today as to the viability of the September/October 2020 hearing.

7. Accordingly, the Commission **cancel**s the hearings scheduled to take place **21**

September – 2 October 2020. The amended schedule for 2020 is:

g. 19 – 29 October 2020;

h. 16 – 20 November 2020;

⁵ AE 653F (3rd Amend), AE 653F (4th Amend), and AE 653F (5th Amend).

⁶ AE 653F (5th Amend).

⁷ AE 563G (GOV), Government Notice of Planning Efforts Concerning the Feasibility of CY2020 Hearings at Naval Station Guantanamo Bay, Cuba, filed 23 July 2020.

⁸ *Id.* at 1.

⁹ *Id.* at Appendix B and C.

¹⁰ See AE 653F (3rd Amend) for explanation as to the health and welfare restrictions and requirement for an advance party.

i. 7 – 16 December 2020.

8. **Order.** The Government is again directed to:

a. Immediately notify the Commission in writing of any modification to or lifting of NAVSTA Instruction 6210.0;¹¹ and any comparable JTF 14-day imposed quarantine requirements;

b. Coordinate with the OMC officials responsible for travel, logistics, and administration and provide a written update to the Commission as to the status of all travel restrictions and/or health and welfare measures applicable to Commission participants traveling to NSGB **not later than (NLT) 60 calendar days** before the start of each of the remaining 2020 sessions.

So **ORDERED** this 5th day of August, 2020.

//s//
DOUGLAS K. WATKINS
COL, JA, USA
Military Judge

¹¹ U.S. Naval Station, Guantanamo Bay, Cuba Instruction 6210.0, “Restriction of Movement (ROM)/Quarantine of 14 Day for All Personnel Entering Naval Station Guantanamo Bay, Cuba,” dated 12 April 2020.