

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 758-3 (MFL)(KSM)

Mr. Mohammad’s Motion for Leave
to File Out-of-Time Notice of
Declination of Joinder to AE 758 (MAH)

27 February 2020

1. **Timeliness:** This motion for leave is timely filed.
2. **Relief Sought:** Pursuant to Rule of Court 3.5.i.(2), Mr. Mohammad respectfully requests leave to file out of time his Notice of Declination Joinder to AE 758 (MAH).¹
3. **Burden of Proof:** The defense bears the burden of persuasion on this motion for leave.
4. **Facts:**
 - a. On 14 February 2020, defense counsel for Mr. al Hawsawi filed AE 758 (MAH).
 - b. Mr. Mohammad desires to decline joinder to AE 758 (MAH).
 - c. Rule of Court 3.5.i.(1) provides that a Notice of Declination of Joinder is due “within seven (7) calendar days from the day the underlying motion is filed.” Once more than seven calendar days have elapsed since the filing of an underlying motion, RC 3.5.i.(2) requires a party to file a motion for leave to file out of time in the event the party seeks to decline joinder.
5. **Argument:**

Per RC 3.5.i.(4), Mr. Mohammad hereby respectfully requests leave to file a Notice of Declination of Joinder to AE 758 (MAH).

¹ AE 758 (MAH) Defense Motion to Dismiss Charges IV, V, and the Additional Charge for Failing to Adequately State Offenses, 14 February 2020.

6. **Request for Oral Argument:** Not requested.
7. **Request for Witnesses:** None.
8. **Conference with Opposing Counsel:** Not required under RC 3.5.i.(3).
9. **Attachments:**

A. Certificate of Service

Respectfully submitted,

//s//

GARY D. SOWARDS
Learned Counsel

//s//

DAVID Z. NEVIN
Defense Counsel

//s//

DEREK A. POTEET
LtCol, U.S. Marine Corps
Defense Counsel

//s//

RITA J. RADOSTITZ
Defense Counsel

//s//

DENISE LeBOEUF
Defense Counsel

//s//

MELANIE T. PARTOW
Defense Counsel

Counsel for Mr. Mohammad

Attachment A

CERTIFICATE OF SERVICE

I certify that on the 27th day of February 2020, I electronically filed the foregoing document with the Chief Clerk of the Military Commissions Trial Judiciary and served the foregoing on all counsel of record by email.

//s//
Gary D. Sowards
Learned Counsel