

**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 788 (12th Sup)/AE 639HH (11th Sup)

Twelfth Supplement to
INTERIM ORDER

Temporary Extension of Briefing and Litigation
Suspense Due to Impacts of
Coronavirus COVID-19

18 December 2020

1. On 18 November 2020, in AE 788 (10th Sup)/AE 639HH (9th Sup),¹ the Commission extended the existing 240 day extension of all briefing and litigation suspense dates scheduled to occur on or after 26 March 2020 (as set forth in Commission’s litigation schedule)² for an additional 30 calendar days, thereby increasing the filing extension to a total of 270 calendar days. In that Order, the Commission again deferred decision regarding additional extensions and the viability of holding a Rule for Military Commission (R.M.C.) 802 conference.
2. Since the issuance of AE 788 (10th Sup)/AE 639HH (9th Sup), the Coronavirus COVID-19 Pandemic has continued to worsen, prompting the Department of Defense to move to a heightened state of force health protection for the Pentagon Reservation (which includes Office of Military Commissions office spaces within the National Capital Region).³
3. In light of the worsening impact of the Pandemic, the Commission finds it necessary to increase the existing 270 day extension by another 30 calendar days.

¹ AE 788 (10th Sup)/AE 639HH (9th Sup), *Tenth Supplement* to Interim Order, Temporary Extension of Briefing and Litigation Suspense Due to Impacts of Coronavirus COVID-19, dated 18 November 2020. On 24 November 2020, the Commission issued AE 788 (11th Sup)/AE 639HH (10th Sup), Eleventh Supplement to Interim Order Temporary Extension of Briefing and Litigation Suspense Due to Impacts of Coronavirus COVID-19 to provide further guidance as to the procedures for the filing of classified pleadings from 19 November 2020 to 2 December 2020.

² AE 639M (2nd Amend), *Second Amended* Trial Scheduling Order, dated 2 March 2020.

³ AE 788N (GOV), Government Notice of Status of Pentagon Reservation Workplace Conditions, filed 25 November 2020.

4. Accordingly, all briefing and litigation suspense dates scheduled to occur on or after 26 March 2020 (as set forth in Commission’s litigation schedule) are extended for a total of 300 calendar days. Procedures regarding classified filings during this period of extension shall remain as set forth in AE 788 (3rd Sup)/AE 639HH (2nd Sup).

5. Additionally, the Commission continues to **DEFER** decision regarding additional extensions and the viability of holding an R.M.C. 802 conference.⁴

So **ORDERED** this 18th day of December, 2020.

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

⁴ There is a pending Joint Defense motion requesting the Commission (1) continue its temporary extension for an additional 30 days; (2) continue to issue extensions in 30 day increments “until the impacts of the COVID-19 are alleviated to the degree that the Military Judge concludes that safe travel to Naval Station Guantanamo Bay and in-person attorney-client visits can be safely resumed”; and (3) hold a telephonic R.M.C. conference with the parties 14 days prior to issuing new briefing and disclosure deadlines to discuss “the status of the national emergency and further litigation and hearing schedule.” AE 639TT (KSM et al)/AE 788K (KSM et al), Defense Motion to Continue Temporary Extension of Briefing and Litigation Suspense Due to Impacts of Coronavirus COVID-19, filed 22 September 2020. The Government opposes the granting of additional extensions, but does not oppose holding an R.M.C. 802 conference. *Id.* at fn 2.