

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

UNITED STATES OF AMERICA v. KHALID SHAIKH MOHAMMAD, WALID MUHAMMAD SALIH MUBARAK BIN ‘ATTASH, ALI ABDUL AZIZ ALI, MUSTAFA AHMED ADAM AL HAWSAWI	AE 955CCC / AE 957XX RULING Mr. Mohammad and Mr. Hawsawi's Notice of Under Seal Filing and Mr. Mohammad's and Mr. Hawsawi's Motion for Leave to Supplement AE 955YY (KSM) / AE 957TT (MAH) 16 July 2026
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1. Background.

a. Mr. Mohammad and Mr. Hawsawi seek a determination and formal notice from the Commission that the proceedings are noncapital, predicated upon specific terms within pretrial agreements executed prior to the Secretary's withdrawal.

b. Separately, Mr. Mohammad and Mr. Hawsawi seek to supplement their underlying reply brief with newly discovered evidence regarding the scope of the Convening Authority's delegated authority at the time the agreements were executed. The Prosecution opposes the requested relief, arguing the agreements are void and the capital referral is restored.

2. Procedural History.

a. On 2 March 2026, Mr. Mohammad and Mr. Hawsawi filed a motion for the Commission to formally recognize the proceedings as noncapital.¹

¹ See AE 955UU (KSM) / AE 957PP (MAH), Mr. Mohammad and Mr. al Hawsawi's Notice of Under Seal Filing, filed 2 March 2026.

b. On 12 March 2026, the Prosecution responded in opposition.²

c. On 19 March 2026, Mr. Mohammad and Mr. Hawsawi replied.³

d. On 8 July 2026, Mr. Mohammad and Mr. Hawsawi filed a motion for leave to supplement their reply brief.⁴

3. Findings.

a. On 31 July 2024, the Convening Authority, Mr. Mohammad, and Mr. Hawsawi entered into Pretrial Agreements.⁵

b. On 11 July 2025, the U.S. Court of Appeals for the District of Columbia Circuit issued a writ of mandamus and prohibition following the Secretary's withdrawal from the Pretrial Agreements.⁶

c. The D.C. Circuit explicitly ordered that this Commission is prohibited "from conducting hearings in which Respondents would enter guilty pleas or take any other action pursuant to the withdrawn pretrial agreements."⁷

² See AE 955XX (GOV) / AE 956PP (GOV) / AE 957SS (GOV), Government Notice of Under Seal Filing, filed 12 March 2026.

³ See AE 955YY (KSM) / AE 957TT (MAH), Mr. Mohammad and Mr. al Hawsawi's Notice of Under Seal Filing, filed 19 March 2026.

⁴ See AE 955-7 (MFL)(KSM) / AE 957-7 (MFL)(MAH), Mr. Mohammad's and Mr. al Hawsawi's Motion for Leave to Supplement AE 955YY (KSM) / AE 957TT (MAH) Reply to AE 955XX (GOV) / AE 956PP (GOV) / AE 957SS (GOV) Government Consolidated Response to AE 955UU (KSM) / AE 957PP (MAH) Motion for Determination and Notice of the Noncapital Nature of His Military Commission, filed 8 July 2026.

⁵ See AE 955 (GOV), Government Notice Of Under Seal Filing, filed 1 August 2024; AE 957 (GOV), Government Notice Of Under Seal Filing, filed 1 August 2024.

⁶ See *In re United States*, 143 F.4th 411 (D.C. Cir. 2025).

⁷ *Id.*

4. Law.

a. The Mandate Rule dictates that an inferior court has no power or authority to deviate from the mandate issued by an appellate court.⁸

b. The rule operates as a powerful version of the law-of-the-case doctrine, preventing courts from reconsidering issues that have already been decided in the same case.⁹

c. A trial court cannot fashion a remedy or take any action that is inconsistent with either the express terms, or the spirit, of the higher court's holding.¹⁰

5. Analysis.

a. In the underlying motion, Mr. Mohammad and Mr. Hawsawi request that the Commission formally recognize the proceedings as noncapital based on the execution of the Pretrial Agreements on 31 July 2024. The Prosecution opposes the requested relief based upon the Secretary's subsequent withdrawal from the agreements.

b. The Commission's analysis begins and ends with the mandate of the superior court. As this Commission previously determined when denying Mr. Mohammad and Mr. Hawsawi's request to schedule a plea hearing, the mandate of the D.C. Circuit explicitly prohibits the Commission from taking "any other action pursuant to the withdrawn pretrial agreements."¹¹

c. The core premise of Mr. Mohammad and Mr. Hawsawi's request relies upon giving legal effect to the withdrawn agreements to recognize a change in the nature of the proceedings.

⁸ See *Am. Council of Blind v. Mnuchin*, 977 F.3d 1, 5 (D.C. Cir. 2020).

⁹ See *id.*

¹⁰ See *id.*

¹¹ AE 955ZZ / AE 957UU Ruling, Mr. Mohammad and Mr. al Hawsawi's Motion to Schedule Hearing for Entry of Pleas, dated 19 March 2026.

Taking such an action is squarely prohibited by the absolute, forward-looking bar established by the D.C. Circuit's writ of prohibition.

d. In their motion to supplement, Mr. Mohammad and Mr. Hawsawi request leave to introduce newly discovered evidence concerning the specific delegation of authority held by the Convening Authority at the time the Pretrial Agreements were executed.

e. This requested supplement is legally immaterial to the disposition of the underlying motion. The D.C. Circuit's prohibition against taking action pursuant to the withdrawn Pretrial Agreements operates as an absolute bar to the relief sought in the underlying motion, rendering the proposed supplemental evidence moot.

6. Rulings.

a. The motion for leave to supplement¹² is **DENIED**.

b. The underlying motion seeking relief regarding the nature of the commission¹³ is **DENIED**.

So **ORDERED** this 16th day of July, 2026.

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MICHAEL A. SCHRAMA, Lieutenant Colonel, USAF
Military Judge
Military Commissions Trial Judiciary

¹² See AE 955-7 (MFL)(KSM) / AE 957-7 (MFL)(MAH).

¹³ See AE 955UU (KSM) / AE 957PP (MAH).