

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

UNITED STATES OF AMERICA	AE 048X
v.	Joint Motion to Stay Litigation
MAJID SHOUKAT KHAN	April 22, 2021

1. Timeliness

This joint motion is timely filed pursuant to Trial Judiciary Rule of Court 3.7.

2. Relief Requested

The Prosecution and Defense (hereinafter, the “Parties”) respectfully submit this joint request for an order staying litigation pending the Military Judge’s consideration of the Second Modification to the February 13, 2012 Pretrial Agreement and Appendix A, concluded April 16, 2021 (“Second PTA Modification”). *See* AE 012B. In particular, the Parties request that the Military Judge stay all litigation deadlines, and rulings on all pending motions. The Parties do not request that the Military Judge stay consideration of: this joint motion; two forthcoming joint motions (Joint Motion for Conduct of Voir Dire and Sentencing Instructions, and Joint Motion for Leave to File AE 061A and AE 061B, Out of Time); any future motions relating to procedural or scheduling matters; or any motions required by the terms of the Second PTA Modification.

3. Burden of Proof

The Parties join in this request for relief and agree that they must demonstrate by a preponderance of the evidence that the requested relief is warranted. *See* Rule for Military Commissions 905(c).

4. Argument

The Parties' joint motion to stay litigation should be granted for good cause because the Second PTA Modification, if accepted by the Military Judge, would render further litigation largely moot. *See* AE 012B, Att. B, ¶ 2 (Accused agrees not to make "any future motions," except as to procedural or scheduling matters, and agrees to move to withdraw certain other motions and request vacatur of AE 033K). In particular, there would be no need for the Parties to file, or for the Military Judge to rule on, motions that the Defense intends to withdraw pursuant to the Second PTA Modification. The only motions that the Parties anticipate would need to be resolved are this motion, the two forthcoming joint motions that relate to Mr. Khan's sentencing before the panel (Joint Motion for Conduct of Voir Dire and Sentencing Instructions, and the Joint Motion for Leave to File AE 061A and AE 061B, Out of Time), any future motions relating to procedural or scheduling matters, and any motions required by the terms of the Second PTA Modification.

5. Oral Argument

The Parties do not request oral argument.

6. Witnesses and Evidence

No witnesses or evidence are required for this motion.

7. Certificate of Conference

The Parties have conferred concerning this motion and file jointly.

8. Additional Information

The Parties have no additional information to present at this time.

9. List of Attachments

- A. Certificate of Service, dated April 22, 2021.
- B. Proposed Order.

Respectfully submitted,

//s//

Walter H. Foster IV, COL, USAR
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Thomas O. Walker II, LT, JAGC, USN
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//s//

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Detailed Defense Counsel

Counsel for Majid Khan

ATTACHMENT A

CERTIFICATE OF SERVICE

We certify that on this 22nd day of April 2021, we caused AE 048X, Joint Motion to Stay Litigation, to be filed with the Military Commissions Trial Judiciary, and served on all counsel of record.

//s//

Walter H. Foster IV, COL, USAR
Trial Counsel

//s//

Michael J. Lyness
MAJ, JA, U.S. Army
Detailed Defense Counsel

ATTACHMENT B

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

UNITED STATES OF AMERICA	AE ____
v.	[Proposed] Order
MAJID SHOUKAT KHAN	Joint Motion to Stay Litigation
	April ___, 2021

The Parties' Joint Motion to Stay Litigation is hereby GRANTED for good cause shown. All litigation deadlines and rulings on pending motions are hereby STAYED pending further order of the Commission, except that the Commission shall consider the Parties' forthcoming Joint Motion for Conduct of Voir Dire and Sentencing Instructions, and Joint Motion for Leave to File AE 061A and AE 061B, Out of Time, as well as any future motions relating to procedural or scheduling matters, and any motions required by the terms of the Second PTA Modification.

SO ORDERED, this ____ day of April 2021.

DOUGLAS K. WATKINS
COL, JA, USA
Military Judge