

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

UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI	AE 007GG RULING Defense Notice and Request For Approval of Excusal of Defense Counsel 17 January 2019
---	---

1. On 31 October 2018, the Defense requested Mr. Adam Thurschwell be excused from representing the Accused in this case.¹ Included in this request was the Chief Defense Counsel’s (CDC) initial excusal memorandum, to which a supplement was filed on 14 January 2019.² Although at the hearing held on 9 November 2018 the Accused informed the Commission that he consented to Mr. Thurschwell’s request to withdraw, the Military Judge withheld determination pending the status of incoming counsel.³
2. On 7 January 2019, the CDC detailed Lieutenant Dahoud A. Askar and Lieutenant Charles D. Ball to represent the accused.⁴ At the hearing held on 7 January 2019, both new counsel placed their qualifications on the record, were sworn in by the Military Judge, and the Accused designated Ms. Susan Hensler as his lead defense attorney.⁵
3. Under Rule for Military Commissions 505(d)(2)(B), “After an attorney-client relationship has been formed . . . an authority competent to detail such counsel may excuse or change such

¹ See AE 007Z, Defense Notice and Request For Approval of Excusal of Defense Counsel, filed 31 October 2018. Attachment C (pages 8-12) was filed *Ex Parte*.

² AE 007Z (Sup), Defense Notice and Request For Approval of Excusal of Defense Counsel, filed 14 January 2019.

³ See Unofficial/Unauthenticated Transcript (Transcript) of the Abd al Hadi al-Iraqi Motions Hearing dated 9 November 2018 at pp. 2296–2299.

⁴ See AE 007EE, Detailing as Defense Counsel in the Military Commission case of *United States v. Abd al Hadi al-Iraqi (Nashwan)* (10026), filed on 7 January 2019, and AE 007FF, Detailing as Defense Counsel in the Military Commission case of *United States v. Abd al Hadi al-Iraqi (Nashwan)* (10026), filed on 7 January 2019.

⁵ See Transcript dated 7 January 2019 at pp. 2306–2309.

counsel only: (i) Upon request of the accused or application for withdrawal by such counsel; or
(ii) For other good cause shown on the record.”

4. Based on the reasons for excusal asserted by Mr. Thurschwell, the current pretrial posture of the proceedings, the adequate staffing of the defense team, the express and informed consent of the Accused, and the good cause determination made by the CDC in his role as the supervisory attorney responsible for detailing, resourcing, facilitating proper representation of the Accused and regulating the conduct of defense counsel, the Commission finds good cause for Mr. Thurschwell’s excusal.

5. The Defense request to excuse Mr. Thurschwell is **GRANTED**.

So **ORDERED** this 17th day of January, 2019.

//s//
M. D. LIBRETTO
LtCol, USMC
Military Judge