

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

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<p><b>UNITED STATES OF AMERICA</b></p> <p><b>v.</b></p> <p><b>ABD AL HADI AL-IRAQI</b></p>	<p><b>AE 007HH</b></p> <p><b>RULING</b></p> <p><b>Defense Motion</b> To Withdraw Representation</p> <p><b>17 January 2019</b></p>
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1. On 9 November 2018, Major Yolanda Miller filed AE 007BB, Motion to Withdraw Representation (In Camera/Under Seal Filing).<sup>1</sup> The Chief Defense Counsel’s (CDC) initial excusal memorandum was filed via AE 007DD,<sup>2</sup> and a supplement was filed on 14 January 2019.<sup>3</sup> Although at the hearing held on 9 November 2018 the Accused informed the Commission that he consented to Major Miller’s withdrawal, the Military Judge withheld determination pending the status of incoming counsel.<sup>4</sup>
2. On 7 January 2019, the CDC detailed Lieutenant Dahoud A. Askar and Lieutenant Charles D. Ball to represent the accused.<sup>5</sup> 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.<sup>6</sup>

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<sup>1</sup> Pursuant to AE 129B, RULING, Motion For Leave to File Motion to Withdraw *In Camera* and Under Seal, dated 6 November 2019, Maj Miller filed AE 007BB under her signature in order to maintain privacy.

<sup>2</sup> AE 007DD, Defense Notice of Chief Defense Counsel’s Excusal of Detailed Defense Counsel, Att. B, filed 9 November 2018.

<sup>3</sup> AE 007DD (Sup), Defense Notice of Chief Defense Counsel’s Excusal of Detailed Defense Counsel, filed 14 January 2019.

<sup>4</sup> See Unofficial/Unauthenticated Transcript (Transcript) of the Abd al Hadi al-Iraqi Motions Hearing dated 9 November 2018 at pp. 2298–2299.

<sup>5</sup> 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.

<sup>6</sup> See Transcript dated 7 January 2019 at pp. 2306–2309.

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 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 Major Miller, 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 Major Miller’s excusal.

5. The Defense request to excuse Major Miller is **GRANTED**.

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

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