

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

UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI	AE 132 DOCKETING ORDER 29 November 2018
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1. A hearing in this case will take place 7–14 January 2019,¹ at the U.S. Naval Station, Guantanamo Bay, Cuba. The hearing will begin at 0900 hours on 7 January 2019. The date, time, and duration of subsequent sessions throughout the remainder of the week are subject to change based on the Accused’s health status and input from the parties.

2. The Accused shall be present on the first day of the hearing (Monday, 7 January 2019). A forced cell extraction shall not be employed to compel the Accused’s presence at the hearing.

3. The parties will be prepared to discuss or reargue, as necessary, the following motions:

AE 019 Defense Motion to Strike Common Allegations

AE 027 Defense Motion to Dismiss Co-Conspirator Liability

4. The Commission will hear argument and receive evidence, as required, on:

AE 131 Order

AE 024 Defense Motion to Dismiss Conspiracy as a Violation of the Ex Post Facto Clause

AE 085 Defense Motion to Dismiss the Charges Because Congress Lacks the Constitutional Power to Limit the Jurisdiction of Law-of-War Military Commissions to Non-Citizens

AE 117 Defense Motion to Dismiss Charge V Due to Lack of Jurisdiction²

AE 025 Defense Motion to Dismiss Conspiracy Since it Exceeds Congress’ Authority Under the Define and Punish Clause

AE 028 Defense Motion to Dismiss Charge V because it Violates the Jury Trial Protections of Article III and the Fifth and Sixth Amendments

¹ See AE 122A, Amended Scheduling Order, dated 29 November 2018.

² Per the request of the Defense in AE 119C, Defense Motion To Amend AE 119 Docketing Order, argument on AEs 117, 025, and 028 will be combined.

AE 121 Defense Motion to Compel Appointment and Funding of Defense Mitigation Expert (Neurosurgery)

AE 102K Defense Motion to Reconsider Order Denying Mr. al-Tamir's Motion to Compel Access to Counsel

5. If either party believes other motions or issues should be addressed during this hearing, they may request the Commission amend this order.
6. A Rule for Military Commissions (R.M.C.) 802 conference will be conducted at **1700** on Sunday, 6 January 2019, in the Panel Deliberation Room located next to Courtroom 1 in AV 34.
7. If required, the military judge may order a hearing under the provisions of Military Commission Rule of Evidence (M.C.R.E.) 505(h) to be conducted at a time to be determined. Pursuant to M.C.R.E. 505(h)(1)(C), the hearing will be *in camera* and closed to the public. The Accused will not be present. If the parties anticipate the need for such a hearing, they must file the requisite notices and requests within the timelines specified under M.C.R.E. 505.
8. The time which has transpired since arraignment until the date of the next session (7 January 2019) shall be considered excludable delay in accordance with R.M.C. 707(b)(4)(E)(i) and R.M.C. 707(c). This Commission finds that the interests of justice have been served by granting continuances for the resolution of interlocutory and other pretrial issues, and that the resolution of these issues outweighs the interests of the public and the Accused in a more timely trial.

So **ORDERED** this 29th day of November, 2018.

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M. D. LIBRETTO
LtCol, USMC
Military Judge