

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

<b>UNITED STATES OF AMERICA</b>  <b>v.</b>  <b>ABD AL HADI AL-IRAQI</b>	<b>AE 143</b>  <b>DOCKETING ORDER</b>  <b>14 February 2019</b>
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1. A hearing in this case will take place **5 – 7 March 2019**,<sup>1</sup> at the U.S. Naval Station, Guantanamo Bay, Cuba. The hearing will begin at 0900 hours on 5 March 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 (**Tuesday, 5 March 2019**). A forced cell extraction shall not be employed to compel the Accused's presence at the hearing.

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

**AE 120** Government Motion to Compel Production of Discovery Pursuant to R.M.C. 701(g);

**AE 134** Defense Motion to Compel Discovery of Information Related to Intelligence Reports or other Documents relating to the Political and Military Structure of the Taliban (also referred to as the Islamic Emirate of Afghanistan);

**AE 135** Defense Motion to Compel Discovery Related to White House and DOJ Consideration of the CIA Rendition, Detention and Interrogation Program;

**AE 136** Defense Motion to Compel Discovery Regarding CIA Rendition, Detention, and Interrogation Program;

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<sup>1</sup> This amends the dates set forth in AE 122B, Second Amended Calendar Year 2019 Scheduling Order, dated 18 January 2019.

**AE 137** Defense Motion to Compel Discovery of Information Related to and Access to Buildings in which the Accused or any Potential Witnesses Have Been Confined;

**AE 139** Defense Motion to Compel Defense Examination of Accused's Conditions of Confinement Onboard Naval Station Guantanamo Bay;

**AE 140** Defense Motion to Compel the Full, Underacted Version of the "Memorandum of Agreement Between the Department of the Defense (DOD) and the Central Intelligence Agency (CIA) Concerning the Detention by DOD of Certain Terrorist at a Facility at Guantanamo Bay Naval Station" that was Approved for Release on 6 October 2016; and,

**AE 141** Defense Motion to Compel Proper Reclassification of Discovery Materials.

4. The Court may hear argument and receive evidence, on the following motions (AE 138 and AE 142) subject to the Defense establishing good cause as to why these motions were not filed in accordance with the previously established (and long passed) motions filing deadlines ordered in the Amended Litigation Schedule (AE 110C) dated 1 August 2018. Defense's good cause showing shall be submitted not later than **22 February 2019**. Any response from the Government will be filed not later than **28 February 2019**. Replies will not be entertained.

**AE 138** Defense Motion to Compel Appointment and Funding of Linguists for Foreign Language Audio Discovery, or, in the Alternative, to Abate the Proceedings IAW R.M.C. 703(d);<sup>2</sup>

**AE 142** Defense Motion to Declare RMC 703 Unconstitutional Because It Gives the Prosecution Unilateral Notice of and Control over the Defense Witnesses<sup>3</sup>

5. To the extent the parties believe further argument is needed on AE 079, Defense Motion to Compel Discovery of Sixteenth Supplemental Request for Discovery dated 25 January 2017 or

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<sup>2</sup> Filing deadline of 5 October 2018. AE 110C Amended Litigation Schedule dated 1 August 2018, at 1.

<sup>3</sup> Filing deadline of 24 August 2018. AE 110C Amended Litigation Schedule dated 1 August 2018, at 1.

AE 080, Defense Motion to Compel Discovery of Seventeenth Supplemental Request for Discovery dated 30 January 2017, they may request to do so not later than **22 February 2019**.

6. If either party believes other motions or issues should be addressed during this hearing, they may request the Commission amend this order, but will do so not later than **22 February 2019**.

7. A Rule for Military Commissions (R.M.C.) 802 conference will be conducted at **1700** on **Monday, 4 March 2019**, in the Panel Deliberation Room located next to Courtroom 1 in AV 34.

8. 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 either party anticipates the need for such a hearing, they must file the requisite notices and requests not later than **22 February 2019**. Responses, if any, will be filed not later than **28 February 2019**.

9. The time which has transpired since arraignment until the date of the next session (5 March 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 14th day of February, 2019.

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M. D. LIBRETTO  
LtCol, USMC  
Military Judge