

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

UNITED STATES OF AMERICA v. ABD AL RAHIM HUSSAYN MUHAMMAD AL NASHIRI	AE 726CC Interim Ruling R.M.C. 909 Hearing 30 October 2026
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1. Procedural History.

a. On 4 September 2026 the Defense filed AE 724, requesting the Commission order an inquiry into the present mental capacity of the Accused to stand trial, pursuant to Rule for Military Commissions (R.M.C.) 706(b)(2), and a limited stay of proceedings. The Government responded on 14 September 2026. AE 724B. No reply was authorized. AE 724A. The Commission granted the defense request for an inquiry pursuant to R.M.C. 706. AE 724C.

b. On 22 September 2026, prior to completion of the R.M.C. 706 inquiry, the Defense filed AE 726 requesting the Commission order an R.M.C. 909 hearing on the Accused's capacity to stand trial. The Government responded on 6 October 2026, opposing a hearing pursuant to R.M.C. 909. AE 726A. The Defense replied on 13 October 2026. AE 726B.

c. The R.M.C. 706 report and findings were provided to the parties and the Commission in the appropriate formats on 15 and 16 October 2026. R.M.C. 706(3)(3)(A) and (B).

d. On 16 October 2026, the Commission issued an interim order directing a hearing pursuant to R.M.C. 909 and thereby granting the defense motion at AE 726. AE 726E.

e. A hearing pursuant to R.M.C. 909 was held from 19 to 21 October 2026 at Naval Station Guantanamo Bay, Cuba.

2. **Burden of Proof.** The Defense bears the burden of proving, by a preponderance of the evidence, that the Accused is presently suffering from a severe mental disease or defect which rendered him unable to understand the nature of the proceedings against him or to cooperate intelligently in the defense of his case. R.C.M. 909(e)(2) and *United States v. Estes*, 62 M.J. 544, 549 (Army Ct. Crim. App. 2005). *See also Cooper v Oklahoma*, 517 U.S. 348, 362 (1996) (citing 18 U.S.C. § 4241).

2. **Facts.** Detailed findings of fact will be provided when a final ruling is issued.

3. **Law and Analysis.** The caselaw and analysis relied upon by the Commission will be provided when a final ruling is issued.

4. **Ruling and Orders.** In AE 726, the Defense challenged the Accused's competence to stand trial. Having considered all the evidence and testimony presented as well as the arguments of the parties, the Commission finds the Defense failed to overcome the presumption of competence. Accordingly, the Commission finds the Accused is able to understand the nature of the proceedings against him and to conduct or cooperate intelligently in his defense and is therefore competent to stand trial. RMC 706 and RMC 909. A written ruling will follow as soon as practicable.

So **ORDERED** this 30th day of October 2026.

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MATTHEW S. FITZGERALD
COL, USA
Military Judge