

Guantanamo military commission arraigns 9/11 defendants

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In a 12-hour hearing Saturday at the Guantanamo Bay prison camp, the Pentagon resumed the long-delayed prosecution of five prisoners linked to the terrorist attacks of September 11, 2001. The proceeding became bogged down almost immediately in efforts by the military judge and prosecutor to block any airing of charges that the prisoners had been systematically tortured in US custody.

The prisoners include Khalid Sheik Mohammed, the reputed organizer of the suicide hijackings; his nephew Ramzi Binalshibh, accused of playing a major role in Al Qaeda operations in Germany, where many of the hijackers lived; and three lesser figures, Walid bin Attash, Ammar al Baluchi, and Mustafa Ahmed Hawsawi.

All five are charged with murder, hijacking and terrorism, as well as other charges. They could face the death penalty, although the last two named are accused only of wiring money to those who organized the attacks, not of any operational role.

The hearing Saturday was the first time the five men had appeared in public in nearly four years. The Obama administration initially sought to transfer the cases to civilian courts, then backed off after both Democratic and Republican congressmen, senators and local officials objected to having the trial in New York City.

Bipartisan congressional action eventually prohibited the use of funds to try the prisoners anywhere on US soil, and the White House capitulated last year and reestablished the trials by military commission, which Obama as a presidential candidate had denounced.

The trial is beginning at the Guantanamo Bay concentration camp, which Obama had pledged to close down during his first year in office—another campaign promise discarded in the face of opposition from the military-intelligence apparatus and both Democrats and

Republicans in Congress.

The case against the five prisoners has been further undermined by the use of torture to extract confessions and other information, particularly from Khalid Sheik Mohammed, the supposed ringleader, who was waterboarded 183 times in the month after he was captured in Pakistan in 2003.

In an effort to prevent any introduction of the torture issue into the proceedings, the military barred the media from actually attending the trial, placing the press in a separate room to view the hearing over closed circuit television, with a 40-second time delay so that a military censor can bleep out any reference to torture using white noise.

The censor intervened at least once during Saturday's hearing, when defense attorney Capt. Michael Schwartz tried to raise the issue of the treatment of his client Attash, who was hauled into the courtroom shackled to a chair because of alleged non-cooperation.

The presiding judge, Army Col. James Pohl, said he might entertain argument over the treatment of the prisoners at a later stage, but not at the arraignment. He warned Capt. Schwartz not to "cross the line" in his remarks in court. Capt. Schwartz later remarked, "It looks like the line right now is embarrassment to the government."

The makeshift character of the proceeding is demonstrated by the fact that the Pentagon only filed the formal charges against the defendants a month ago—more than ten years after the 9/11 attacks, and nine years after the arrest of Khalid Sheikh Mohammed. The hearing had to be held on a Saturday to meet a procedural requirement that the arraignment be within 30 days of the filing of charges. It was put together in such haste that there was no written Arabic translation of the documents available for the defendants.

The five defendants for the most part ignored the proceedings, talked among themselves, and occasionally sought to interrupt the judge and prosecutor by challenging the entire hearing. Judge Pohl ruled that by their silence the prisoners had accepted their court-appointed lawyers, who would be entitled to speak for them at the hearing.

At one point Binalshibh broke his silence by comparing Guantanamo to the Libyan regime of Muammar Gaddafi, who also tortured Islamic fundamentalists, including some prisoners handed over to him by American and British intelligence agencies.

“The era of Gaddafi is over, but not in this camp,” he shouted at the judge. “Maybe they are going to kill us and say that we are committing suicide. You want to kill us.” Binalshibh resumed his silence after the judge threatened to have him removed from the courtroom.

At one point, lawyers for the prisoners demanded that the 87-page charge sheet be read in full, including the names of all 2,976 victims of the 9/11 attacks, which would have forced an all-night hearing. Ultimately the text was read, together with an oral Arabic translation, but without the names, extending the proceeding until after 10 p.m.

The lawyers for all five defendants deferred any plea, dashing the hopes of military prosecutors who had suggested that Mohammed might declare his guilt, as he did at a previous hearing in 2008, and demand a death sentence.

While the military prosecutor asked for a trial date in September, defense attorneys said it would require at least a year to prepare the case, including the selection of a jury of military officers.

Ten victims or relatives of those who died in the 9/11 attacks attended the hearing in Guantanamo, after they were chosen by lottery. Several hundred more sat through satellite broadcasts of the hearing at six locations on the US mainland.



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