

**Military Commissions:
Pre-Trial Hearings, 9/11: Khalid Sheikh Mohammad et al. (2)
Week of 4NOV2019-8NOV2019.**

Events:

Judicial Watch observed the 4-8 November 2019 pretrial hearings for the 9-11 military commission from the telecast facilities at Fort George G. Meade in Maryland. The Monday and Tuesday sessions were closed for classified arguments, but the open sessions from Wednesday through Friday were attended by between 1 and 4 representatives of NGOs, mainland members of the prosecution and defense teams, and observers from the Office of Military Commissions (OMC) and Military Commissions Defense Organization (MCDO).

The majority of time in open session was occupied by Al Baluchi, Bin Al Shihb and the government's defense teams examining and cross-examining Supervisory Special Agent Michael S. Butsch of the Federal Bureau of Investigation (FBI).

Special Agent Michael Butsch was a part of the FBI's terrorism investigation team in New York on 11 September 2001 and ultimately became the lead investigator in charge of identifying, tracking, capturing, and interviewing Bin Al Shihb. It was to be determined what FBI evidence would be admissible to trial according to whether it was obtained or tainted by the use of torture and whether Bin Al Shihb's interview with the FBI and CITF was impacted by his prior internment with the CIA renditions (RDI) program (possibly admissible to trial, but considered tainted). Classified cross-examination could not be completed in the time allotted, so Judge Cohen ordered defense teams to consider written interrogatories¹ (to which Al Baluchi and Bin Al Shihb responded,² KSM objected,³ and Hawsawi joined KSM's objection.⁴ Open session testimony indicates that the FBI interview did not devolve from torture and may only have been mildly impacted by any aftereffects of Bin Al Shihb's renditioning.

The open session also addressed AE643, which is a motion to disqualify the Convening Authority Admiral Christian Reismeier for the appearance of or actual partiality.⁵ Bin Attash's defense team moved to compel Reismeier and other personnel as witnesses, citing an e-mail exchange and in-person interactions in alleging that Reismeier and General Martins (lead prosecutor) have more than a working relationship. In addition, Bin Attash's defense asserted that Reismeier's impartiality toward Bin Attash would be impossible, because Reismeier tried Al Nashiri for the U.S.S. Cole bombing, a case in which Bin Attash was listed as an unindicted co-conspirator. Judge Cohen granted the motion to compel Reismeier as a witness but has made no ruling to grant or deny disqualification.⁶

¹ [https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20\(AE681\(SHOW%20CAUSE%20ORDER\)\).pdf](https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20(AE681(SHOW%20CAUSE%20ORDER)).pdf)

² AE681A (AAA, RBS).

³ AE681C (KSM).

⁴ [https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20\(AE681D\(MAH\)\).pdf](https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20(AE681D(MAH)).pdf)

⁵ [https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20\(AE643\(WBA\)\).pdf](https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20(AE643(WBA)).pdf)

⁶ [https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20\(AE643P\).pdf](https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20(AE643P).pdf)