

**Military Commissions:
Hearings, Majid Khan
19NOV2019-20NOV2019**

Events:

Judicial Watch, Inc. observed the 19-20 November 2019 sentencing hearings for ISN 10020 Majid Khan from the telecast facilities provided at Fort George G. Meade in Maryland. A maximum of two observers were present at each session.

These were early public sessions in the Khan sentencing hearings. In 2012, Khan pled guilty to the charges brought against him and agreed to delay sentencing for four years. In 2016, Khan withdrew his plea of guilty to one of the charges that could no longer be adjudicated in military commissions (“providing material support for terrorism”) and requested a further three-year delay to his sentencing hearings. In April 2019, Khan’s defense team stated their continuing intent to pursue a mitigation case in the sentencing sessions. Part of the proceedings in November 2019 followed in the same vein as April.

- AE 38¹ – This was the motion to disqualify Convening Authority Admiral Reismeier for conflict of interest. The judge indicated that Reismeier was present and ready to provide testimony if both the defense and the government desired to continue. The defense balked, stating that the government had provided 1000 pages of new discovery on the motion 90 minutes prior to the hearing. The government defended that 600 pages were already public, and only 400 were new. The judge appeared angry and noted that he had had only the flight time on his way to GTMO to review the same discovery. After a recess, the judge ruled to delay the Reismeier testimony and further argument of AE 38.
- AE 33² – This motion sought pre-trial punishment credit for Khan in determining his sentence and the service of his sentence. The defense cited that Khan’s pre-trial agreement had allowed for the mitigation of torture and a sentence not exceeding 19 years, and so it was seeking pre-trial punishment credit for Khan’s time in the renditions (RDI) program. The government argued that pre-trial punishment credit should be brought up to the sentencing authority, not the judge, and asserted that unprivileged enemy belligerents cannot call on Geneva Convention rights and that Law of War detainees are exempt from pre-trial punishment credits. The defense rebutted that, since the convening authority agreed with the government’s assessment, the only recourse for relief is to address pre-trial punishment credit before the judge. The judge made no ruling on this motion.
- Protective Order regarding RDI Witnesses – The defense sought to independently contact witnesses to determine if they would be willing to speak with the defense and objected to a protective order as “interfering with making a pitch.” The government asserted that independent contact of overt personnel was allowed but contact of covert personnel

¹ [https://www.mc.mil/Portals/0/pdfs/Khan/Khan%20\(AE038\).pdf](https://www.mc.mil/Portals/0/pdfs/Khan/Khan%20(AE038).pdf)

² [https://www.mc.mil/Portals/0/pdfs/Khan/Khan%20\(AE033\(Sup\)\).pdf](https://www.mc.mil/Portals/0/pdfs/Khan/Khan%20(AE033(Sup)).pdf)

should go through the government in order to protect those operatives. The judge did not provide an opinion.