

*Military Commissions:*  
**9/11: ISN 10024 Khalid Sheikh Mohammad, et. al.**  
**Pre-Trial Proceedings**  
**January 21-24, 2025**

*Events:*

Judge McCall began the hearing on January 21, 2025, by reiterating that a stay was in place concerning the plea agreements, so all proceedings for the week would center around the final arguments on the admissibility of the Letterhead Memorandum (LHM) statements that Ali/Baluchi, the remaining 9/11 co-conspirator in pre-trial proceedings, made to the FBI.

The judge noted that the D.C. Circuit Court of Appeals was scheduled to hear oral presentation on the plea agreements on January 28, so he anticipated that pleas might go forward as early as the following Tuesday or Thursday.

The government argument on the admissibility of the LHM statements centered on the following issues:

- The motion concerns the admissibility of the LHM statements as voluntary, not the morality of the RDI program.
- Statements that Ali made were voluntary because:
  - He made strong statements in the face of his adversaries, not weak and confused statements. For instance, he said he supported the attacks in order to make Americans feel Palestinian pain, and that he would do so again and again until support for Israel was withdrawn.
  - His statements about events were accurate, consistent reports. If they had been prompted by a desire to prevent torment, they would have been malleable to what he thought his interviewers wanted to hear at the time.
  - He has never claimed that the LHM statements were involuntary, whereas, he has made numerous statements disclaiming what he said during the RDI program.
- The defense and government psychiatrists should be given different evidentiary weight, specifically based on how their means of evaluating Ali's mental condition differs from the evaluation standards applied to other soldiers and civilians. Some of the doctors appeared more as advocates than as experts during their witness testimonies.

The counterargument by the defense on the admissibility of the LHM statements as voluntary hinged on the potential mental fallout of the RDI program. This argument was supported by the use of numerous diagrams depicting the general shapes and progressions of traumatic brain injuries, post-concussive disorder, post-traumatic stress disorder, fear extinction curves, and the impact that similar surroundings have on mood, responses, and mental habits. The defense also employed historical drawings and drawings by Ali, arguing parallels between torture methods used in medieval times, during World War II, and in Asian cultures with interrogation methods used in the RDI program.

*Observations:*

The judge appeared to have many more questions for the government than for the defense, leaving the government representative visibly discouraged. This, coupled with the court's prior determination that the LHM statements were inadmissible for use in the Nashiri commission, lends credence to believe that Judge McCall will disqualify the LHM statements for use in any trial of Ali/Baluchi. And if the plea deal for KSM and two of his co-conspirators are withdrawn, the judge will likely disqualify the LHM statements for use in their trial as well.