

***Office of Military Commissions:***  
**ISN 10015 Abd Al Rahim Hussein Muhammed Abdu Al Nashiri**  
**Pre-Trial Proceedings**  
**Week of December 15-19, 2025**

**December 15 Commission Hearing**

The pre-trial hearing for ISN 10015 Abd Al Rahim Hussein Muhammed Abdu Al Nashir (Nashiri) began off the record at 9:07 a.m. on December 15, 2025, and was called to order and placed on the record several minutes later, consistent with the practice of prior sessions presided over by this judge. The commission was held in the smaller of the Expeditionary Legal Complex (ELC) courtrooms and extended the well of the courtroom to the Remote Hearing Room (RHR) in the national capital region. Approximately half of the government trial team attended from the RHR, as well as the learned defense counsel and several other members of the defense team. Prior to discussion of the schedule or the weekly attendance colloquy between the judge and the accused, the learned defense counsel objected to the commission proceeding while she was restricted to attending from the RHR for continued blood-clotting issues. The judge noted the objection but determined to hold the commission anyway.

***Testimony of Government Witness, NCIS Special Agent Andrew Emilie***

The first witness called to testify for the government was former NCIS Special Agent Andrew Emilie, who had originally been investigating Khallad bin Attash for involvement in the bombing of the U.S.S. *Cole*, then for involvement with the 9/11 attacks. Emilie primarily testified to the voluntariness and content of proffer interviews he conducted with Sharqawi, which implicated Nashiri in Al Qaeda membership and involvement with the U.S.S. *Cole* bombing.

This testimony was halted due to varying degrees of technical difficulties that interrupted the feeds to the RHR, the Pentagon, and Ft. Meade. This prompted the lead defense counsel for Nashiri to dispatch co-counsel to investigate the conditions at Ft. Meade and other remote observation locations in person. When a functional link was regained, Emilie was shown and identified fourteen photographs of people involved in bombing the U.S.S. *Cole* and pictures of numerous items of pocket litter that Sharqawi recognized and discussed during the proffer interviews.

***Defense cross-examination***

Defense cross-examination probed how aware Sharqawi was of the captivity status of people he discussed, rapport and reward items given to Sharqawi, and his understanding of his obligations in the plea agreement that he made.

***Government redirect***

Government redirect clarified Sharqawi's initial preference to only discuss the actions of the dead, how much Sharqawi knew about other detainees interviewed by Emilie, and how fund transfers through hawalas worked.

Once testimony concluded, the commission discussed the planned sequence of witnesses and arguments for the next day and recessed at 4:00 p.m. with a plan to resume at 9:00 a.m.

## December 16 Commission Hearing

The commission came to order on December 16, 2025, at 9:00 a.m. After a short report on 802 discussions the previous day, the judge directed the government to call its next witness, FBI Agent Christina M. Sun.

### ***Testimony of Government Witness, FBI Agent Christina M. Sun***

Ms. Sun was a trained and practicing counterterrorism specialist when she was called to conduct proffer interviews with Kazimi. While she was the secondary interviewer responsible for taking notes and logistics alongside Detective Patrick Lantry, she was able to testify as to the location, duration, voluntariness, and content of the interviews. Kazimi identified Sharqawi and Nashiri by photograph, and implicated Nashiri in the *Cole* bombing because Nashiri had tasked Kazimi with scouting transportation routes for the explosives.

Witness testimony was delayed between examination and cross-examination by further technical difficulties.

### ***Defense cross-examination***

Defense cross-examination focused on any knowledge or intelligence she and Detective Lantry may have had that originated with the CIA and black sites, ulterior motives that Kazimi might have had for implicating Nashiri, and the reporting procedures.

### ***Government redirect***

Lunch recess and closed session testimony delayed government redirect until 3:06 p.m. During redirect, it was confirmed that from the photographs and records Agent Sun and Detective Lantry showed to Kazimi, he reported that Nashiri had given him money to transport explosives.

### ***Testimony of Government Witness, Capt. James Kessler***

The government then called Capt. James Kessler as a witness. Capt. Kessler is an executive officer for the hospital at GTMO where he functions as both a nurse and a healthcare administrator. Examination and cross-examination regarded staffing, equipment, and emergency care capabilities. There are about 150 personnel on staff, which includes 14 doctors (4 of which are family doctors and an emergency physician) who rotate through the Emergency Department. Kessler reported that cardiology either requires a specialist to be called or Naval personnel flown to other naval hospitals. Civilians would have to be flown to Miami. He also testified that pulmonary embolisms are uncommon on GTMO, so emergency treatment may not be up to mainland standards of care and restricted to trying to stabilize the patient for evacuation. Questions from the judge clarified that health screenings apply to personnel, not to government civilians or civilian visitors. Although flying to GTMO while under treatment for pulmonary embolism is not recommended due to the health risks, the GTMO hospital has a 24-hour Emergency Department and is an accredited hospital.

### ***Testimony of Government Witness, Dr. Crystal Robinson***

The government called Dr. Crystal Robinson as a witness. Dr. Robinson is a commander in the medical corps who has served as a flight surgeon and performs family medicine at GTMO. Examination concerned the nature of pulmonary embolism, causes and treatments, the cost of an emergency medical evacuation from GTMO (\$30,000-\$35,000), and the delay in treatment that evacuation would cause (average 30 minutes).

### *Defense cross-examination*

Defense cross-examination sought in-depth information on emergency treatment procedures on island, available blood therapies and stockpiles at the GTMO hospital, and the reasonable expectation of time needed to treat pulmonary embolism before a patient can safely fly again (6 months).

### *Government redirect*

Government redirect ensured that the physician's letter concerning lead defense counsel's pulmonary embolism status had reached Dr. Robinson. Further clarification was made regarding the requirements for a safe return to GTMO beyond 6 months of treatment for pulmonary embolism, that patient cannot be on anticoagulants, and the inciting incident must have been identified and removed.

After excusing the witness, the judge heard and granted a request that the commission not begin until 9:30 a.m. the next day to allow the defense team to meet with Nashiri. He then recessed the commission at 5:45 p.m.

## **December 17 Commission Hearing**

The December 17, 2025, hearing came to order at 9:32 a.m. and began with the government trial team's request to enter six exhibits into the record that it planned to use while taking witness testimony from former agent Ali Soufan for AE 627. The defense team objected, indicating that it had only received the approximately 300 pages in addition to fingerprint reports for the first time at 9:00 p.m. the previous night without prior notice from the trial team. The defense team requested full exclusion on the basis of withheld discovery. Further, the documents had been used in the Bahlul trial but had never been used in questioning, with the potential that they were irrelevant because they were not corroborative of hearsay statements.

### ***Testimony of Government Witness and Former Agent, Ali Soufan***

The government trial team called former agent Ali Soufan to provide testimony. Examination focused on the circumstantial role of the video that Al Qaeda released about the *Cole* bombing, Bahlul's role in the *Cole* bombing and service to Osama Bin Laden, the contents and implications of fingerprint reports about prints lifted from captured evidence, and the circumstances of Soufan's interview of Bahlul.

### *Defense cross-examination*

Defense cross-examination challenged Soufan about his interview of Bahlul when he had intended to interview Hamdan. He was asked if any of the reported fingerprints were identified as Nashiri's (Soufan did not recall) and cast doubts upon Soufan's notetaking and report-writing practices.

He was also asked about Bahlul's hesitation to talk about anyone but himself, recant statements made previously, and how Soufan evaluated Bahlul's truthfulness.

### *Government redirect*

Government redirect established that Soufan's notetaking was for the purpose of writing FD-302 reports, not to create stand-alone documents. Further clarity was brought regarding Hamdan's role in identifying Nashiri, as Hamdan reported that Nashiri bragged to him about his involvement in bombing the U.S.S. *Cole*. Redirect also confirmed that Soufan had interviewed Bahlul before Nashiri's capture.

The judge briefly recessed the commission and moved to closed-session testimony at 5:32 p.m., noting that open sessions would resume at 9:30 a.m. the next day.

## December 18 Commission Hearing

### ***Testimony of Government Witness, Detective Patrick Lantry (Sharqawi)***

On December 18, 2025, open session came to order at 9:46 a.m., and the government trial team called Detective Patrick Lantry. Lantry testified that he was a member of the New York Police Department detailed to the FBI and on the Joint Terrorism Task Force for counterterrorism as a result of the 9/11 attacks.

He was the lead interviewer for the proffer interviews of Sharqawi, whom he knew as “Riyadh the Facilitator,” but also conducted proffer interviews of three other GTMO detainees. He was unaware of Sharqawi's allegations of abuse at the time but noted that that would not have changed his interview techniques. And any allegations of abuse would have been heard and considered in the proffer.

The first two sessions with Sharqawi discussed only the deceased. The third session discussed detainees at GTMO, and he actively identified photographs of and spoke about Nashiri. Sharqawi recalled Nashiri and Osama Bin Laden meeting at the Kandahar Airport; although, on a later occasion, Bin Laden warned Kandahar Airport personnel to evacuate for fear of American retaliation because Nashiri had successfully blown up the *Cole*.

### ***Defense cross-examination***

Defense cross-examination concerned the ubiquity of weapons and explosives in Yemen and worked up to the specifics of how Sharqawi conducted his facilitation of Nashiri and others, specifically asking how Sharqawi knew that Nashiri had received funds transferred to him after the *Cole* bombing. Sharqawi did not know because he had been arrested shortly after triggering the transfer process.

### ***Government redirect***

On redirect, the government sought greater detail on Lantry's testimony about the money transfer processes and helped establish that out of several types of processes in Islamic nations, there are some that do not leave a document trail.

### ***Testimony of Government Witness, Detective Patrick Lantry (Kazimi)***

Lantry was retained as a government witness for a second AE motion. Questions about Lantry's proffer interview with Kazimi were similar to the questions asked about Sharqawi. Deviations occurred about Kazimi's activities, such as when Nashiri paid Kazimi to check the route from Hadramaut to Yemen, transport explosives to the UAE, purchase a minibus and a car, and videotape a flying lesson with Nashiri.

### ***Defense cross-examination***

Defense cross-examination reaffirmed that Lantry did not know the contents of the motion series for which he was testifying. He also did not access DOD materials in preparation for the proffer interviews, other than perhaps a Combatant Status Review Tribunal (CSRT) write-up, even though some topics of conversation with Kazimi had apparently first been brought up at black sites. Lantry did not know why he had been selected to conduct the Kazimi proffer but speculated that it might have been his prior experience with proffer interviews. Lantry was called upon to identify several reports, which he confirmed that he wrote, and noted that several were from “health and welfare check” visits to build rapport. The judge then excused Lantry from further witness testimony.

### ***Argument over admissibility of two witnesses***

The government and the defense argued the admissibility of two planned witnesses for a series of motions that seek a continuance because learned defense counsel claims current arrangements have hindered in the preparation of Nashiri to participate in his own defense. Due to health reasons, learned counsel is required to remain on the mainland and must meet with Nashiri by video-teleconference, which causes him anxiety.

The government accepted defense proffer of witness testimony on one witness; the judge ruled it was not necessary for him to hear from the second witness; and the third witness was approved to testify. The judge directed that proceedings should begin at 9:00 a.m. the next day and recessed the commission at 5:50 p.m.

## **December 19 Commission Hearing**

### ***Nashiri's voluntary absence at commission hearing***

The commission came to order at 9:03 a.m. on December 19, 2025. Nashiri elected not to attend the commission. The associate staff judge advocate (ASJA) responsible for informing Nashiri of his right to attend and obtaining his decision in writing explained that Nashiri had said he was tired out by the previous days' hearings and had a headache. The learned defense counsel then questioned the staff judge advocate if he informed Nashiri in English or Arabic, whether translations had been made directly or by general gist, if he had called medical staff to check Nashiri's vital signs and provide aid, and other such requests that implied negligence. The judge halted this questioning when it discovered that one of the forms that had been used was marked incorrectly for the KSM trial accused, instead of for Nashiri.

The judge recessed the commission at 9:30 a.m. to allow time for the form to be corrected, and to obtain an exact translation of Nashiri's words, as well as have Nashiri examined by medical personnel. At 11:55 a.m., personnel were informed that the commission would remain in recess until 1:30 p.m. The commission resumed at 1:35 p.m. and arguments about the voluntariness of Nashiri's absence continued until 2:50 p.m. The judge then called a short recess until 3:18 p.m.

The judge ruled that Nashiri's absence was voluntary.

### ***Testimony of Defense Witness, Professor Wendell***

The defense called its first witness, Professor Wendell, telephonically, at 3:40 p.m. After placing his qualifications on the record as an expert ethics witness, Professor Wendell opined that the learned defense counsel was materially limited by her inability to travel to meet with her client, and that video-teleconference was probably insufficient, given the encumbrance, insecurity, and presence of the translator in the process.

### ***Government cross-examination***

Government cross-examination revealed that when Professor Wendell offered to write this opinion in a letter, he had not understood that it would be used as part of a motion for withdrawal or continuance. He was also not aware that the lead defense counsel was also involved in a capital case in the Virgin Islands. He was not comfortable offering an opinion as to whether the lead defense counsel should withdraw from the case, since that would be a legal rather than an ethics opinion. He noted that withdrawal was not necessarily mandatory, even with the trial schedule remaining tight, and any continuance would be more likely for the accommodation of a new lead defense counsel.

### ***Testimony of Defense Witness, Eric Carpenter***

The defense called its second witness, Eric Carpenter, also telephonically, at 5:11 p.m. Mr. Carpenter placed his qualifications on the record as a professor of law and also as a researcher into how capital juries process their presented cases. He opined that earning client trust can happen in “really odd ways.” When in person, the barrier to trust remains high. As such, when interaction is remote, the case is being hindered. He also opined that associate counsel may engender less trust than learned counsel since they routinely complete tours of duty. Further, he believed there should not be a different learned counsel for trial and sentencing phases because 50 percent or more of jurors personally decide a sentence before declaring guilt or innocence.

### ***Government cross-examination***

During government cross-examination, Professor Carpenter confirmed that he is affiliated with the 9/11 teams, but not the Nashiri team and is only vaguely familiar with the charges and facts of the Nashiri case. Nevertheless, that fact does not have any bearing on his assertion that while replacement of counsel sometimes becomes necessary, replacement within the Nashiri team would have to rely on a pre-existing level of trust that does not seem present. He noted that the standard timeline of a capital case is two to three years. With the volume of documents in the case, a new learned defense counsel would require far more than the available six months to establish trust and expertise.

### ***Defense redirect***

Defense redirect explored details that could be perceived be a learned defense counsel when meeting with a client in person.

After the witness was excused, it was decided by the parties that arguments scheduled for the new year could be handled via affidavit and brief. The judge canceled all three planned weeks of Nashiri hearings in January 2026 with the requirement that there still be off-the-record 802 discussions between himself and the parties during the first week of January. The judge placed the final Nashiri pre-trial hearing of 2025 in recess at 7:54 p.m.

### ***Observations:***

The judge asked questions of the witnesses and the parties more frequently during this session than any prior sessions and also took several controlling actions requiring completion of the scheduled arguments and testimony. Some of his comments indicated that he considered the parties to be either disrespecting or deliberately wasting the commission's time. The judge may have been attempting to keep the commission on track for the scheduled trial in 2026 and reacting to otherwise problematic behavior.

The learned defense counsel appears to be aggressively pursuing every option to derail, delay, or cancel the Nashiri commission. During this session she presented herself as being simultaneously irreplaceable yet unable to fully perform her functions due to pulmonary embolism treatment that prohibits her from traveling and subsequently appearing in person at GTMO. She also ensured a multi-hour delay to determine why Nashiri did not attend court that day, implying neglect and deliberate obstruction on the part of the guard force, the medical staff, and the staff judge advocates. While she may not be accused of providing ineffective assistance of counsel, continuing this trend may backfire when she presents the case to the jury panel because both short- and long-term public observers expressed significant antipathy toward her and, consequently, to her client.

No update was provided in open session on attempts to balance Nashiri’s treatment for motion sickness and the resulting sleepiness. However, when he was visible, he did not fidget as much during this

week's sessions. He appeared to pay attention to the proceedings, though sat slumped unless the judge was conversing with him.

The learned defense counsel dispatched one or more of her staff to attend the hearings from the remote observation locations to ascertain conditions of the signal and attendance. She provided updates to the judge as she received them, and one of her team members indicated that there may be a motion presented in a future pre-trial session for upgrades to telemetry and viewpoint handling. This may have been a coordinated effort between defense teams across commissions cases, as it coincided with the Ali/Baluchi defense team's objections and arguments to NGOs being excluded from observing in the public gallery on island and the bin al-Shibh defense team's motions for their judge to take action on the low functionality of the <https://www.mc.mil/> website.

In the past, current public observation conditions have been deemed acceptable for sentencing hearings that happened one at a time. However, with two commissions now able to occur simultaneously, with three scheduled during the same week, and the strain that that is placing upon public observation systems at remote sites, the judges may be moved to conclude that a trial under these circumstances would not be considered suitably accessible to the public.