

Office of Military Commissions:
ISN 10024 Khalid Sheikh Mohammed et. al.
Pre-Trial Proceedings
December 15, 2025

Events:

The pre-trial proceedings for ISN 10024 Khalid Sheikh Mohammed, et. al. (KSM), originally scheduled to begin on December 15, 2025, at 9:00 a.m., were delayed due to an urgent request made the defense team for Bin Attash to meet with their client.

The proceedings finally convened at 1:00 p.m. before newly appointed Judge Lt. Col. Michael A. Schrama, who ensured that the credentials for new personnel were placed on the record, which was followed by the requisite weekly attendance colloquy with the accused, before placing his own detailing and credentials on the record.

After noting that he planned to follow previously established commission routines, holding court from 9:00 a.m. to 5:30 p.m., with lunch and prayer breaks, the judge announced the planned schedule for the day to begin with oral argument by the Ali/Baluchi defense team regarding its objection and motion to return non-governmental organizations (NGO) access to GTMO, followed by voir dire that he anticipated would take the entire afternoon.

The Ali/Baluchi defense team and the trial team had submitted written voir dire questions. The remaining defense teams stated that they were declining voir dire and arguments while waiting for further resolution on the plea agreement issue.

The government trial team moved to strike some of the Ali/Baluchi defense team's questions, but the judge declined the motion and stated his intention to read each question, evaluate it, and answer or refrain from answering. The judge addressed the prosecution and defense voir dire questions, and afterward the judge opened the commission to further questioning from all teams. Neither the trial team nor any of the defense teams challenged the judge for cause.

Lead defense trial counsel for Ali/Baluchi, James Connell, opened argument on the objection to continued exclusion of NGOs from attending the hearings on island by framing these proceedings as “the 55th hearing in this iteration of the commission” and cited the attendance of NGO observers from the 9/11 Families for Peaceful Tomorrows, the National Institute for Military Justice, Georgetown University, and Judicial Watch at the 54th hearing to illustrate the diverse range of interested parties who previously occupied the gallery. He noted that the Rules for Military Commissions number 806 and the Regulation for Trial by Military Commission 19-6 specify the accessibility of military commission hearings to NGOs as a function of rendering a public trial, demonstrating that none of the authorized exceptions for providing access were applicable to this situation. Mr. Connell also noted a Courts for Military Commission Review (CMCR) decision in 2019 that specified that access to the proceedings solely by CCTV viewing was not adequate to render the trial fully public. Further, while remote viewing opportunities at Ft. Meade remained unabated, press access to the viewing site at the Pentagon has been severely curtailed. He also reiterated the slow update of information and release of documents through the <https://www.mc.mil/> website. The Ali/Baluchi defense team requested relief from the lack of public trial through means requested in AE 978, which proposes that all hearings involving the argument of issues impacting Mr. Ali/Baluchi be suspended until pretrial agreement difficulties have been resolved and/or NGO observer access is resumed.

Clayton Trivett, Jr., prosecutor for the government trial team, opened his rebuttal by stating that the government and the defense had conversed, per the orders of the commission, to determine any possible unanimity. Since the D.C. Circuit Court among others has not granted a stay of proceedings as regards pre-trial agreements, the government does not agree to the appropriateness of the remedy in AE 978. However, he reported that a new NGO observer access policy was already drafted and was believed to be signed imminently. He also confirmed that the revocation of the former NGO observer policy was not an affirmative action taken by the government to restrict access to the commissions, but a response to migrant operations at the time causing significant strain on GTMO resources and security.

The judge elected not to rule from the bench on the AE 978 NGO observer access motion.

The judge discussed further scheduling matters with the parties present and recessed the commission at 4:16 p.m.

Though previously scheduled for commission sessions, December 16 and 18 were used instead for ex parte closed presentations and defense team client meetings.

Observations:

Judge Schrama freely admits that he is not yet current with the case record of the KSM military commissions and indicates that he is willing to be guided by all of the parties as to details that he may not recognize when ruling on motions for which he did not witness testimony or argument. This reflects a flexible style that appeared to reduce tension in the trial and defense teams. However, the judge also firmly refused to make verbal commitments pressed by the Ali/Baluchi defense during voir dire. Historically, judges have needed several hearings to strike a balance between accommodating and controlling the many teams in this compound trial, but Judge Schrama appears to have already found that balance.

All of the accused appeared to be healthy and actively engaged when visible during this hearing. All elected to wear ethnic attire, a change from KSM's regular choice to adopt a camouflage jacket and other trappings of a military uniform. All spoke to the judge through their interpreters. No one chose to return to the detention facilities while the commission was in session, despite the fact that the alternate viewing site was in use, and they could not retreat from public view.

The Ali/Baluchi defense team's complaint about NGO observer access appeared to be part of a multi-case coordinated effort by the defense teams. Concurrently, the Bin Al Shibh defense team had requested the judge in their case to take action to improve the low functionality of the <https://www.mc.mil/> website, while members of the Nashiri defense team were openly investigating the status of remote observation facilities and reporting their findings to their judge in real time. The crux of all three arguments was that the trials for their clients were not sufficiently accessible to the public.