United States Military Commissions:
Abd al-Rahim al-Nashiri (ISN 10015)
Competency Hearing Week
October 19–23, 2026

October 19 Commission Hearing

The military judge in *United States v. Abd al-Rahim al-Nashiri*, the capital case arising from the 2000 USS *Cole* attack, convened a competency hearing from October 19–23, 2026. Under Rule for Military Commissions (R.M.C.) 909, a defendant is presumed competent to stand trial unless the defense establishes, by a preponderance of the evidence, that he lacks the mental capacity to understand the proceedings or meaningfully assist counsel. The hearing was held at the defense's request following its challenge to the R.M.C. 706 evaluation conducted by Army psychiatrist Maj. Anthony Ralston, who concluded that al-Nashiri was competent to stand trial despite diagnoses of PTSD and depression.

The morning was dominated by a dispute over access to Dr. Ralston's approximately 80-page report. The defense opposed releasing the full report to the prosecution before its experts testified, citing protections for statements the defendant made during psychiatric examinations. Prosecutors argued they could not effectively contest the defense's position without the underlying findings. Judge Fitzgerald pressed defense counsel on how the commission could evaluate a challenge to the 706 Board's conclusion without permitting both parties to examine its findings. At one point, the judge said he was at a loss as to how the proceeding could move forward. He overruled the defense's objection; prosecutors received the report with al-Nashiri's statements redacted.

Defense psychiatrist Dr. Terry Kupers testified that al-Nashiri has severe, chronic PTSD, major depression, and a neurocognitive disorder that impairs attention, learning and memory, executive function, and social cognition. He attributed these conditions to alleged CIA torture, prolonged confinement, possible brain injury, and potentially the effects of meclizine (Bonine) and Adderall. Kupers interviewed al-Nashiri twice in August 2026, for approximately five hours total, and relied on medical records and accounts from defense counsel, clinicians, and other detainees. He described al-Nashiri's inability to sustain case-related conversation, frequent digressions, resistance to redirection, and distress when discussing alleged torture. He concluded that al-Nashiri could not meaningfully assist counsel.

Prosecutors sought a separate physical medical board report describing al-Nashiri's everyday communications and functioning. The defense argued that the board's physicians were not psychiatrists and had not evaluated trial competency. Judge Fitzgerald questioned why the medical board's firsthand observations were irrelevant when defense experts themselves relied on observations from attorneys, guards, other physicians, and detainees. The defense countered that conversational ability was not the same as cooperating with lawyers. The judge reserved a ruling on admitting the additional records and allowed the prosecution time to review the 706 Board's competency report.

October 20 Commission Hearing

After a delay due to a fire alarm at the Remote Hearing Room, the prosecution cross-examined Dr. Kupers on the sources, methodology, and certainty of his conclusions. Kupers acknowledged that he had not reviewed the 2026 R.M.C. 706 report, administered formal neuropsychological or structured malingering tests, or retained contemporaneous interview notes. Although Kupers interpreted abnormalities on a 2017 MRI as possible evidence of traumatic brain injury and suggested that al-

Nashiri may have suffered oxygen deprivation during waterboarding, he could not establish the cause of the MRI findings or confirm that oxygen deprivation had occurred. He conceded that similar findings on an MRI can have other explanations, including age-related changes. The prosecution noted that traumatic brain injury, anoxia, and neurocognitive disorders were not documented as diagnoses in the DoD records discussed in court.

The prosecution also exposed gaps between Dr. Kupers' firsthand observations and his report findings. A claim that al-Nashiri could not remember his birth date was drawn from records rather than a question Kupers personally asked him. Other assertions about al-Nashiri's mental health came from third-party accounts, including fellow detainees. Kupers did not consult the prescribing physicians about meclizine, used for dizziness or motion sickness, or Adderall, used to counter the sedative effects of meclizine; he did not know precisely how often al-Nashiri takes these drugs. The prosecution raised al-Nashiri's history of motion sickness dating to childhood as an alternative explanation for symptoms the defendant experiences during the short drive from Camp 5 to court. Kupers said that transportation could also trigger traumatic memories from the defendant's time at CIA black sites.

Dr. Kupers' description of al-Nashiri being in solitary confinement for nearly two decades drew sustained questioning. He acknowledged there are opportunities for detainees to pray, cook, participate in recreational activities, and socialize together, and that cell access practices had changed over time. He nevertheless argued that Camp 5's architecture and restrictions could reproduce the psychological effects of solitary confinement. The prosecution challenged Kupers' characterization of debriefing as torture and questioned the inclusion of a 2002 GTMO physician's letter in his report, a letter that predated al-Nashiri's capture. Kupers continued to emphasize the lasting effects of alleged abuse on al-Nashiri.

Dr. Kupers attempted to ask al-Nashiri a series of approximately 20 competency-related questions but stopped because the defendant could not stay on topic or be redirected; he considered that failure itself clinically significant. He rejected the personality disorder diagnosis described in the 706 Board report, arguing that there was insufficient evidence of longstanding symptoms before captivity. He also maintained that identifying courtroom participants or answering isolated questions correctly does not demonstrate the defendant's ability to track testimony, remember advice, or make decisions throughout a capital trial. Kupers' irritation became apparent during questioning; at one point he asked the prosecutor, "Are you listening to what I just said?"

On redirect, defense counsel Miller returned to alleged torture, PTSD triggers, and accounts of al-Nashiri's behavior from other detainees. Kupers rejected malingering, arguing that al-Nashiri did not want to be perceived as mentally ill and wanted to leave Guantanamo; an incompetency finding would not achieve that goal. The defense closed with a series of questions about the severity of the alleged abuse al-Nashiri suffered in captivity. Asked whether al-Nashiri was "crazy," Kupers answered, "No, he's disabled." Miller blamed the defendant's condition on the U.S. government; Kupers, in turn, responded, "The torture was extreme."

October 21 Commission Hearing

Defense psychologist Dr. Heather Holmes, who has performed approximately 500 competency evaluations, was originally retained by the defense to assess potential sentencing mitigation for al-Nashiri. She later shifted her focus to the defendant's competency and had a total of six meetings with al-Nashiri in September 2026. At their first meeting, he was cordial, focused, curious about her qualifications, and able to converse coherently for roughly two and a half hours. Holmes said most

competency cases are relatively straightforward but called this one unusually difficult and within a "gray area."

Dr. Holmes' impression of al-Nashiri changed in a subsequent meeting when her questions about his family prompted a prolonged angry outburst. She described al-Nashiri as going "off the rails," yelling and insulting her for approximately two hours; at a later meeting, he apologized and was again warm and cooperative. Holmes interpreted the mood swings as trauma-related reactivity rather than psychosis or deliberate misconduct. She believed he managed conversations better when controlling the topic, deferred difficult questions to his attorneys, and avoided material that embarrassed or distressed him. She concluded that PTSD and moderate major depression undermined his ability to participate consistently in his defense, though she did not diagnose a neurocognitive disorder.

On cross-examination, the prosecution contrasted Dr. Holmes' first coherent interview with al-Nashiri to the later hostile episode and suggested alternative explanations for his behavior, including frustration, ordinary inattention, anxiety, poor sleep, and avoidance. Holmes acknowledged that after the initial meeting she had no competency concerns, and that al-Nashiri had taken meclizine and Adderall before both that meeting and the later volatile one. Prosecutors noted that al-Nashiri had not been removed from the courtroom for disruptive conduct during years of proceedings, even when sensitive topics arose and when he was on Adderall. Holmes responded that symptoms fluctuate, and a lengthy capital trial could be more demanding than prior hearings. She also acknowledged that the medical records did not document that al-Nashiri had suffered a loss of consciousness during waterboarding, although she raised the possibility of oxygen deprivation.

On redirect, the defense returned to memory problems and PTSD triggers. A separate evidentiary dispute ended with the commission allowing two versions of the R.M.C. 706 report into the record with al-Nashiri's statements redacted. The prosecution declined to call Dr. Ralston because the redactions to the 706 Board's report would limit their questioning to non-privileged matters; after the judge raised the possibility of calling Dr. Ralston himself, the defense elected to call him.

October 22 Commission Hearing

The defense said it might call former lead prosecutor Capt. Timothy Stinson to challenge information he had supplied to Dr. Ralston about al-Nashiri's courtroom behavior and interactions with counsel. The prosecution objected to making a former prosecutor a witness. The judge postponed the decision on the matter. The defense also agreed to submit the unredacted R.M.C. 706 report, making al-Nashiri's statements available to the prosecution.

After procedural matters were settled, defense counsel Miller asked Dr. Ralston whether he had had sufficient time to review two decades of medical and detention records; he assured her that he did. She also questioned his decision to exclude defense counsel from his initial examination of al-Nashiri. Ralston explained that defense counsel's presence might influence the assessment and that he had planned a follow-up meeting with counsel present, but al-Nashiri refused it. Ralston identified PTSD, persistent depressive disorder, anxiety, and narcissistic personality traits but concluded that these conditions did not render al-Nashiri incompetent to stand trial.

Dr. Ralston described a nearly five-hour interview during which al-Nashiri understood the charges and courtroom roles, discussed legal matters, and generally responded to questions. He went off on several tangents, often about detention conditions, but was readily redirected. Ralston reported no clear dissociative episode. He administered an Arabic-language Montreal Cognitive Assessment (MoCA), on which al-Nashiri scored a 27 out of 30. Ralston stressed that it was a screening tool, not a full neuropsychological evaluation, but said the result did not suggest severe cognitive impairment. He considered MRI abnormalities nonspecific and said further testing would be needed to establish a

neurocognitive disorder. He acknowledged that functioning could deteriorate during a long trial but that future deterioration could not be predicted.

Defense counsel Miller questioned the MoCA test's cultural applicability, the interpreter's potential assistance to the defendant, possible military command pressure on Ralston to reach a certain competency conclusion, and whether al-Nashiri's deference to lawyers concealed an inability to make decisions. Ralston reiterated the MoCA's relevance to screening for cognitive deficiencies and defended his independence and methodology.

The prosecution requested time to examine the newly unredacted 706 Board report before questioning Dr. Ralston the following morning.

October 23 Commission Hearing

Under cross-examination, Dr. Ralston described reviewing a 2013 706 Board competency evaluation, extensive medical records, defense experts' reports, and information from Capt. Stinson, the former lead prosecutor on the case. He reiterated that al-Nashiri spoke for nearly five hours without a break, used sarcasm, discussed current events and his confinement, and returned to questions after digressions. Although he agrees that al-Nashiri has PTSD, he did not observe the incapacitating reactions described by defense experts. He distinguished the MRI report's nonspecific "hyperintense foci" from a confirmed traumatic lesion and described Cluster B personality traits (behavior that is dramatic, overly emotional, or erratic) without offering a definitive personality disorder diagnosis.

The prosecution introduced an April 2024 hearing transcript in which al-Nashiri acknowledged understanding a stipulation of fact and his ability to reject it. The transcript corroborated Capt. Stinson's account of al-Nashiri's participation in legal discussions and provided a concrete example of the defendant demonstrating an understanding of a legal decision.

On redirect, defense counsel Miller challenged whether brief displays of understanding proved sustained competency. She revisited the MoCA test, potential interpreter assistance during its administration, and the possibility that military or political pressure influenced Dr. Ralston. Her suggestion that an incompetency finding might frustrate the Trump administration's "objective" to execute detainees prompted sustained objections. Ralston again denied any improper influence on his competency evaluation.

After lunch, the defense called Dr. Sondra Crosby, an internist with longstanding experience evaluating trauma and torture victims. The prosecution challenged her qualifications to opine on legal competency, prompting a contentious exchange between Judge Fitzgerald and defense counsel Manuele. The judge told counsel, "You seem to be very hostile to me today." Manuele acknowledged her hostility and apologized but then attributed some of her frustration to the judge's interruptions. The judge reminded counsel that this was his courtroom. Ultimately, he permitted Dr. Crosby to testify but cautioned that competency opinions outside her expertise could draw objections.

Dr. Crosby described al-Nashiri as having persistent concentration and memory problems, mood changes, dizziness, pain, vertigo, and continuing PTSD symptoms, despite some improvement over the years. She raised the possibility of a brain injury and concerns about prolonged meclizine use. On cross-examination, she acknowledged that she was not qualified to make a legal competency determination.

The judge subsequently denied the defense's request to call Capt. Stinson and its request to recall Dr. Ralston, noting that the records Ralston referenced in his report had been in the defense's possession since October 15. Dr. Ralston was excused. Closing arguments were scheduled for October 26.

Observations

The week's central question was not whether al-Nashiri has genuine psychiatric symptoms, but whether those symptoms deprive him of the capacity to participate in his defense. The defense emphasized his unpredictable trauma responses, impaired concentration, and the demands of a lengthy capital trial. The prosecution repeatedly separated diagnosis from legal incapacity and pressed witnesses on what they had directly observed, what they inferred, and what came from defense sources.

The most striking factual contrast was between Dr. Kupers' inability to complete his competency questions and Dr. Ralston's sustained, nearly five-hour interview with al-Nashiri. Dr. Holmes' testimony complicated both positions: al-Nashiri could be attentive and coherent in one session yet erupt during another. The MoCA test score and the observations derived from the April 2024 hearing transcript provided the prosecution with concrete examples of cognitive functioning and legal engagement. The prosecution also effectively challenged the defense experts' interpretations of MRI findings, their lack of formal neurocognitive testing, their limited knowledge of al-Nashiri's medication regimen, and their characterization of his confinement as solitary despite opportunities for social interaction.

At times, courtroom tensions were conspicuous. Dr. Kupers became increasingly impatient under lengthy cross-examination; the defense repeatedly returned to alleged torture even when the immediate question concerned competency. Defense counsel Miller was persistent but at times repetitive in challenging Dr. Ralston's methods and independence, particularly in the line of questioning about political and military influence. Miller repeated profanity twice from an email written by al-Nashiri in an effort to challenge Ralston's characterization of the defendant's relationship with counsel. Defense counsel Manuele's exchanges with the judge were occasionally disjointed and openly confrontational, culminating in his remark about her hostility. Dr. Ralston, despite battling laryngitis and a persistent cough, answered directly and maintained his conclusion of competency. Dr. Holmes was a more measured defense witness than Dr. Kupers, although her acknowledgment of a competency "gray area" underscored the difficulty of proving incapacity.

Al-Nashiri, who appeared briefly on camera at the beginning of each day's proceedings, consistently retreated to a separate viewing location after the first recess. The defense indicated that he sometimes sleeps or watches DVDs instead of following proceedings from the alternate site. Prosecutors emphasized that, despite years of hearings involving potentially triggering topics, al-Nashiri had never been removed from court for disruptive behavior.

On balance, the prosecution presented the stronger case. Its questioning exposed weaknesses in the foundations of the defense experts' opinions and underscored the distinction between psychiatric impairment and legal incompetency. Although the defense presented evidence of significant psychological difficulties, it did not appear to meet its burden of establishing incompetency by a preponderance of the evidence.

Notes:

In an October 30 interim ruling, Judge Fitzgerald found that the defense had not overcome the presumption of competency and ruled al-Nashiri competent to stand trial. Panel selection began November 2, 2026.

All witnesses testified remotely.