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Leaked Emails Say Guantanamo Trials Rigged

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According to emails obtained by ABC News, military commissions set to try Guantanamo detainees are rigged, fraudulent, and thin on evidence against the accused.

The emails were sent by two former prosecutors to supervisors in the Office of Military Commissions in March 2004 - three months before Australian detainee David Hicks was charged.

The first mail, from prosecutor Major Robert Preston to his supervisor, said the process is perpetrating a fraud on the American people, and that the cases being pursued are marginal.

"I consider the insistence on pressing ahead with cases that would be marginal even if properly prepared to be a severe threat to the reputation of the military justice system and even a fraud on the American people," Maj Preston wrote.

"Surely they don't expect that this fairly half-arsed effort is all that we have been able to put together after all this time," Maj Preston said, adding that he is not going to continue working on a process he considers morally, ethically and professionally intolerable.

"I lie awake worrying about this every night," he wrote.

"I find it almost impossible to focus on my part of mission.

"After all, writing a motion saying that the process will be full and fair when you don't really believe it is kind of hard, particularly when you want to call yourself an officer and lawyer."

Less than a month later, Maj Preston was transferred out of the Office of Military Commissions.

The second email sent by Captain John Carr, another prosecutor who also ended up leaving the department, also stated that the commissions appear to be rigged.

"When I volunteered to assist with this process and was assigned to this office, I expected there would at least be a minimal effort to establish a fair process and diligently prepare cases against significant accused," Captain Carr wrote.

"Instead, I find a half-hearted and disorganized effort by a skeleton group of relatively inexperienced attorneys to prosecute fairly low-level accused in a process that appears to be rigged."

According to Carr's email, the prosecutors have been told by the chief prosecutor that the panel sitting in judgment on the cases would be handpicked to insure conviction.

"You have repeatedly said to the office that the military panel will be handpicked and will not acquit these detainees and that we only needed to worry about building a record for the review panel," he said.

Major Michael Mori, David Hicks' defence lawyer, said that the documents are "highly significant".

"For the first time, we're seeing that concerns about the fairness of the military commissions extend to the heart of the process," Maj Mori said.

Hicks's father, on the other hand, said that the latest revelations confirm what he has suspected all along.

"These commissions weren't set up to release people," he said.

"These commissions were set up to make sure they were prosecuted and get the time that they give them, and the other thing we've said all along, that we believe that this system has been rigged as they call it."

But the Pentagon's Brigadier General Thomas Hemingway, a legal advisor to the military commissions, claimed that an investigation has found that the comments were based on miscommunication and personality conflicts.

Brig Gen Hemingway says he does not know if the Australian Government has been informed of the allegations.

"I can't tell you whether they were informed formally, I have so many contacts with representatives of your embassy here in town, the exchange of information has certainly been constant, open and significant but whether or not we got down into the details of this, I really have no recollection," he claimed.

"We certainly would have shared it with them if we found that there was any evidence of misconduct in the office of the prosecution, but we did not find any such evidence."

He also denies that the cases being prosecuted are low-level.

"All of the cases I have recommended that the appointing authority refer to trial, are cases upon which I thought there was sufficient evidence to warrant sending to a fact-finder".