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Little Progress in Latest Gitmo Hearings

BEN FOX
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GUANTANAMO BAY NAVAL BASE, Cuba -- One defendant left during a recess and never came back. The next threatened to boycott his trial. A third suspected al-Qaida terrorist dismissed the U.S. military tribunals as a "circus" and said he had no interest in mounting a defense.

Pretrial hearings for three men captured in the Bush administration's war on terrorism bogged down in legal jousting this week, portending a troubled series of war crimes trials, scheduled to begin later this year at this U.S. military base in Cuba.

Little progress was made in clarifying legal issues during the hearings for the three defendants, who were arrested together in Pakistan and allegedly belonged to an al-Qaida cell. The defense, prosecution and judge, all U.S. military officers, dueled on how to provide fair trials in the hilltop tribunal building overlooking the Caribbean.

The chief military prosecutor, Air Force Col. Morris Davis, told reporters at the close of hearings Thursday that the tribunals made "baby steps" toward preparing for the upcoming trials, the first to be held by the United States since the World War II era. He blamed the slow progress on the defendants and their lawyers, who he said were raising legal challenges to delay justice.

"They are doing everything possible to drag their feet, delay and avoid having to face the facts," Davis said.

Army Lt. Col. Bryan Broyles, the court-appointed attorney for one defendant, countered that the defense was mounting a legitimate challenge to the tribunals, which lawyers and human rights groups say overwhelmingly favor the prosecution.

"If you're not going to receive a fair trial, you spend your time not going to trial, trying to get the system changed," said Broyles, who represents Jabran Said bin al-Qahtani, a Saudi who left the courtroom and did not return, saying his fate was in God's hands. "Everyone is seeking a more fair trial and the way to do that is attack the current system."

Broyles wants the tribunals to adopt the rules for courts-martial, which he believes are fair and well-established and provide a clear road map for how to proceed with the trials here.

Al-Qahtani and the two other defendants, Sufyian Barhoumi of Algeria and Ghassan al-Sharbi of Saudi Arabia, were captured in a March 2002 raid in Faisalabad, Pakistan.

They are charged with conspiracy as part of an alleged plot to attack U.S. troops in Afghanistan with remote-controlled bombs. They face up to life in prison if convicted. They are among only 10 of the 490 detainees at Guantanamo who have been charged with war crimes.

Two of this week's hearings dealt with whether military defense lawyers are violating their code of ethics by representing defendants who want nothing to do with them. The issue remained unresolved.

Al-Sharbi said he wouldn't accept either a military or civilian court-appointed attorney.

"To me, it's the same circus, different clown," he said. The U.S.-educated engineer calmly told the judge he was proud to have fought the United States and that it would be "a matter of honor" to spend the rest of his life in prison.

One of the few issues resolved this week was whether the judge, Navy Capt. Daniel O'Toole, should disqualify himself for bias. O'Toole ruled against disqualifying himself.

The fact that the judge could decide the issue shows the tribunals are weighted against the defendants, said Priti Patel, an attorney for New York-based Human Rights First.

Davis has insisted the defendants will receive full and fair trials.

Another issue resolved this week was whether Barhoumi could move out of the maximum security detention facility in Guantanamo Bay, where officials house those facing military tribunals, to a lower-security wing.

Barhoumi, an alleged explosives instructor, had threatened to boycott the proceedings if he wasn't moved. O'Toole ruled Barhoumi has to stay in the maximum security unit.