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Bin Laden's Ex-Driver Seeks Delay in Trial

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GUANTANAMO BAY NAVAL BASE, Cuba - Lawyers for Osama bin Laden's driver are fighting in a pretrial hearing Monday to have his U.S. military trial delayed until civilian courts rule on whether the commissions, resurrected from World War II, should be revamped.

The challenge before the federal courts is one of several overlapping legal proceedings that could dismantle the commissions before the first planned trial begins next month.

The commissions, or military trials, were set up to try suspected terrorists held at Guantanamo Bay.

Salim Ahmed Hamdan, a 34-year-old Yemeni who says he earned a pittance driving the al-Qaida leader, will be the subject of a hearing on pretrial motions. Hamdan is charged with conspiracy but says he never supported terrorism and was not a member of the terror network.

"These commissions were intended for people like Osama bin Laden, not a mechanic who drove people around," said Lt. Cmdr. Charlie Swift, Hamdan's military-appointed attorney. "The fact that we're doing this will taint the reputation of military justice for years to come."

Swift has filed a federal lawsuit, one of more than 60 similar challenges, arguing that the commissions aren't legal and shouldn't have jurisdiction to try Hamdan. Swift wants his federal case to be heard before Hamdan's scheduled Dec. 7 trial.

Since a U.S. Supreme Court ruling in June cleared the way for detainees to challenge their detentions in U.S. courts, civilian attorneys have streamed into Guantanamo to meet with clients, including Omar Khadr, a Canadian who was 15 when he arrived at Guantanamo in 2002.

Some of the 550 prisoners from more than 40 countries have been held for nearly three years, but few have had access to attorneys and only four have been charged. If they were to win in federal court, their charges could be dismissed.

Air Force Lt. Col. Sharon Shaffer, who represents accused al-Qaida paymaster Ibrahim Ahmed Mahmoud al Qosi, said a habeas petition - one asking a judge to decide if a prisoner is lawfully held - would be filed Monday in Washington. The petition will allege that Shaffer's Sudanese client was tortured by U.S. troops after he was captured by Pakistani bounty hunters in December 2001 and that he suffered abuse at Guantanamo.

After a request nearly two months ago by The Associated Press, the U.S. military last week provided accounts of eight Guantanamo abuse cases mentioned in a congressional report, including one in which a female interrogator exposed her T-shirt, climbed on a detainee's lap and began running her fingers through his hair.

Army Brig. Gen. Jay Hood, commander of the Guantanamo mission, has said lessons have been learned and prisoners are being treated humanely.

"We intentionally decided to wait to file the habeas case to see how the commission process unfolded, but as we watched the developments in the commissions one thing became very clear to us in that rules and procedures are being made up on the fly," Shaffer said.

Since President Bush ordered the commissions, defense attorneys have said the rules are so vague a fair trial is impossible. There is no specific appeal process, and lawyers are still debating what type of evidence can be used.

One of the issues Swift plans to raise is the effect Hamdan's prolonged detention has had. He also plans to challenge the charge of conspiracy to commit war crimes. Hamdan isn't charged with any specific violent act.

Both Swift and Shaffer are angry their clients were charged without an independent tribunal evaluating their status as enemy combatants, a classification affording fewer legal protections than prisoners of war.

The review tribunals were set up after the Supreme Court decision, and since then more than 300 cases have been reviewed. Only one man, a Pakistani, has been freed.

Hamdan and al Qosi were found to be enemy combatants before tribunals last month. Their lawyers were barred from representing them at the hearings, which the government says are administrative.