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War Crimes Trial to Begin, Despite Challenge;

An Algerian terrorism suspect was to go before a Military Commission just weeks before the Supreme Court considers the constitutionality of President Bush's war crimes court.

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GUANTANAMO BAY NAVY BASE, Cuba -- Comparing alleged al Qaeda members to vampires hiding from American justice, the Pentagon's chief war crimes prosecutor vowed Tuesday to press forward with Military Commission trials even as the U.S. Supreme Court considers their legitimacy.

"Remember if you dragged Dracula out into the sunlight he melted? Well, that's kind of the way it is trying to drag a detainee into the courtroom," Air Force Col. Moe Davis told reporters. "But their day is coming. . . . The defense has tried to hide. They're going to show up in the courtroom."

Algerian captive Sufyan Barhoumi, 33, was supposed to be in the dock this morning to face allegations that he was captured in a guest house in Faisalabad, Pakistan, in March 2002 among a band of al Qaeda trainees who had fled the U.S. war on Afghanistan.

But his lawyer late Tuesday got a delay after learning that the International Committee for the Red Cross had notified Barhoumi that his father had recently died.

Later today, an alleged al Qaeda propagandist, Ali Hamza al Bahlul of Yemen, appears before a court.

The United States does not allege that either men had a specific link to the Sept. 11, 2001, attacks, but accuses them broadly of engaging in an al Qaeda conspiracy to attack civilians, commit murder and destroy property.

"Mr. Barhoumi maintains his innocence on all charges," said Army Capt. Wade Faulkner, his lawyer, who called the Military Commissions process "inherently unfair."

Critics complain about the evolving rules of the first U.S. war-crimes tribunals since World War II, and are specifically alarmed about a captive's ability to defend himself from secret evidence that could be used to convict him.

The Supreme Court is to rule by June on the constitutionality of the Military Commissions formula, which casts captives as unlawful combatants, not prisoners of war.

Challenged about the timing of this week's hearings -- weeks ahead of March 28 arguments before the Supreme Court -- Davis, the prosecutor, said "Damned if you do, damned if you don't."

Procedures are moving ahead this week, he said, in part to answer criticism that nearly 500 prisoners are "languishing" at Guantánamo after four-plus years in detention.

Three of the 10 captives here charged with war crimes have gotten restraining orders prohibiting the Pentagon from proceeding until the Supreme Court rules. They include Australian captive David Hicks and Yemeni Salim Hamdan, a self-described one-time driver for al Qaeda founder Osama bin Laden, who claims he is no war criminal and wants a civilian trial.

The other seven have not sought stays, and Air Force Maj. Jane Boomer, a spokeswoman, said the Pentagon decided ``to move forward and give these individuals their day in court."

But Marine Col. Dwight Sullivan, chief defense counsel, described delay as "preferable from a systemic standpoint," given that the high court could order changes.

Sullivan, a civil liberties lawyer in civilian life, bristled at the Dracula analogy, saying opposition to the commissions ``isn't about hiding from the facts. It's about having a fair process where facts can be confronted and opposed."

Veteran Miami defense attorney Neal Sonnett called this week's proceedings "a bad idea" since the Supreme Court ``is going to affect all the Military Commission trials one way or the other."

Sonnett is visiting the sprawling 45-square-mile base as an observer for the American Bar Association.

"The process is flawed," he said, noting that the ABA pushed for procedural changes even before the Pentagon trials "dissolved into chaos" in August 2004.

A key issue is whether already established U.S. civilian or military courts could hear Guantánamo cases.

As an "unlawful enemy combatant," the prosecutor said, Barhoumi and others attended an al Qaeda training camp to use ``terrorism and fear trying to advance their ideology."

"Their concept of a camp is markedly different from ours," he added. ``Arts and crafts didn't involve Popsicle sticks. It is the art of killing and it was crafting bombs out of land mines to kill Americans."