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## **A Canadian Teen's Threat of Boycott Adds to the Tribunals' Procedural Confusion**

Uncertainty hangs over Guantanamo

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GUANTANAMO BAY , CUBA - The Pentagon's effort to move forward with military commission trials for people suspected of being terrorists took another chaotic turn on Wednesday when a Canadian teenager accused of murdering a U.S. soldier in Afghanistan threatened to boycott the proceedings.

From the start of a preliminary hearing on Wednesday morning, the chief military lawyer for the defendant, Omar Ahmed Khadr, 19, clashed repeatedly with the presiding officer over rules for the commissions, the first such tribunals since World War II.

Khadr's chief defense lawyer, Lt. Col. Colby Vokey, answered most of the presiding officer's complaints by suggesting that the proper procedures - if there were any - were far from clear. The presiding officer did not always disagree.

"I don't know, quite frankly, what the procedure would be," the presiding officer, Col. Robert Chester, acknowledged at one point in an argument over how the defense should seek permission to take on a foreign lawyer as an adviser.

The Bush administration established the commissions in the hope that a new, military-run judicial system, for which it could devise its own rules, could prosecute terrorists more effectively than existing courts.

But the tribunals have been beset from the start by procedural confusion and disorganization, and the hearing on Wednesday brought more of the same. With Khadr sitting at the defense table, his lawyer and the presiding officer, both Marines, conducted a heated dispute over whether the defense had duly notified the commission of Khadr's threat to boycott the proceedings unless he was transferred out of a solitary confinement cell into which he said he was moved without explanation last week.

"If you want relief from me on this issue, it's incumbent upon you to give me a heads up," Chester told the defense lawyer sternly.

"No sir, I don't have to do that!" Vokey shouted, slamming his hand down on the defense table.

Following an abrupt recess, the presiding officer all but pleaded with Khadr to continue with the hearing. And though Khadr and his lawyers said he did not wish to do so, he did.

The courtroom drama occasionally recalled the much-parodied 1992 Guantanamo film *A Few Good Men*, with Jack Nicholson and Tom Cruise. It was significant, though, in the way that it underscored the continuing uncertainty over the law and procedures that will govern the commission trials.

The presiding officer and the defense lawyer even argued about what the body of rules should be called. "If you want to call it regulations, call it regulations," Chester told the defense. "I'm going to call it 'commissions law.'"

President Bush established the tribunals after the Sept. 11 attacks at the urging of senior officials who wanted to create an alternate judicial system without the due-process and evidentiary restrictions that apply in civilian and military courts, officials said.

But the due-process standards of the commissions - and even whether they will go forward at all - now depend on the outcome of a challenge pending before the Supreme Court on behalf of Salim Ahmed Hamdan, a Yemeni accused of serving as a driver for Osama bin Laden.

The court is expected to decide the matter by late June. But despite the concern of some administration lawyers that the government might antagonize the court by not waiting for its judgment, the Defense Department began in January to press ahead with preliminary hearings for nine of the 10 Guantanamo detainees who are facing criminal charges.

At what one administration official described as the insistence of Justice Department officials who had to present the administration's case before the Supreme Court, the Pentagon last month issued a new rule prohibiting the use of evidence obtained by torture.

White House lawyers and others had previously objected to such a rule on the grounds that it would wrongly suggest that the United States sometimes used torture.