

JEFF SESSIONS: GEORGE BUSH WAITED 7 YEARS TO SET UP MILITARY COMMISSIONS

Jeff Sessions has already seized on yesterday's release of DOJ's list of 390 terrorist convictions and twisted it to sustain his claim that we need to try Khalid Sheikh Mohammed in a military commission. Much of his response consists of making non-specific claims about individuals on the list in an attempt to minimize the applicability of all these convictions.

The great majority of the terrorism cases cited by the Attorney General are in no way comparable to KSM's case. Most of the convictions in this list are for far lesser offenses, such as document fraud and immigration violations, while only a small handful concern conduct even remotely similar to a mass-casualty terrorist attack. And none are on the level of KSM, who masterminded 9/11.

Among the cases cited is that of Zaccarias Moussaoui, which was fraught with procedural problems, delays, appeals, risks to classified evidence, and even a lone holdout juror who spared the 20th hijacker the death penalty. Due to gaps in federal law, many of the problems prosecutors encountered in the Moussaoui trial will be experienced in future terrorism trials.

[snip]

The figures released today also contradict the Attorney General's claims on the Christmas Day Bomber: two of the terrorists on this list were placed in military custody precisely because the criminal justice system severely limits

our ability to gather intelligence. [my emphasis]

But by far the most amusing attack on this list is Jeff Sessions' explanation—after pointing to the procedural problems and delays in the Moussaoui trial—that most of these 390 convictions happened before military commissions were operational, which he dates to 2008.

Moreover, the overwhelming bulk of these cases are for acts committed by U.S. citizens—which KSM and the Christmas Bomber are not—and occurred before military commissions became fully operational in 2008. [my emphasis]

Someone better tell George Bush, who claims to have set up military commissions on November 13, 2001. And someone better tell Salim Hamdan, who was first charged in a military commission in 2004, and whose appeal of the terms of the military commissions lasted two years, after which there was another two year delay until his trial began.

In other words, Jeff Sessions deals with precisely the kind of delay we can expect for any future military commissions—one of the biggest reasons not to use them—by simply ignoring the delays that have already happened.