

US CHARGES KSM, 9/11 PLOTTERS, AGAIN

DOD has announced that prosecutors have recommended charges against KSM and the other alleged 9/11 plotters.

The Department of Defense announced today the office of military commissions prosecutors have sworn charges against five individuals detained at Guantanamo Bay: Khalid Sheikh Mohammed, Muhammad Salih Mubarak Bin 'Attash, Ramzi Binalshibh, Ali Abdul Aziz Ali, and Mustafa Ahmed Adam al Hawsawi.

The prosecutors have recommended that the charges against all five of the accused be referred as capital. Capital charges may only be pursued with the convening authority's approval. Under rules governing military commissions, the accused will have the right to counsel learned in applicable law relating to capital cases.

The charges allege that the five accused were responsible for the planning and execution of the attacks on New York, Washington D.C. and Shanksville, Pa. that occurred on September 11, 2001. Those attacks resulted in the deaths of nearly 3,000 people.

The charges are allegations that the accused committed offenses that are chargeable under the Military Commissions Act of 2009, 10 U.S.C. §§ 948a, *et seq.* There are eight charges common to all five of the accused: conspiracy, murder in violation of the law of war, attacking civilians, attacking civilian objects, intentionally causing serious bodily injury, destruction of property in violation of the law of war, hijacking

aircraft, and terrorism. The accused are presumed innocent and may be convicted only if their guilt is proven beyond a reasonable doubt.

These charges go beyond what is necessary to establish that the 9/11 co-conspirators may be lawfully detained under the 2001 Authorization for Use of Military Force, as informed by the laws of war – an issue that each Guantanamo detainee may challenge in a habeas petition in federal court.

In accordance with the Military Commissions Act of 2009, the sworn charges will be forwarded to the Convening Authority, Bruce MacDonald. The convening authority will make an independent determination as to whether to refer some, all, or none of the charges for trial by military commission. If the convening authority decides to refer the case to trial, he will designate commission panel members (jurors). The chief trial judge of the Military Commissions Trial Judiciary would then assign a military judge to the case.

How many times have we faced this stage already? How many times over could we have prosecuted KSM already if we had just used existing, rather than Kangaroo, courts? How many more years will it take to determine whether KSM can plead guilty so as to martyr himself?