

DEFENSE LAWYER COMMENTS ON RAMZI BIN AL-SHIBH AND RAHIM AL-NASHIRI

ACLU just had a conference call on today's Gitmo announcement with, among others, Razmi bin al-Shibh's civilian defense attorney, Tom Durkin, and Rahim al-Nashiri's defense attorney, Nancy Hollander. Both had important details about their clients' defense.

I asked Durkin about the status of al-Shibh's competency hearings. Since the government has been trying to refuse defense attorneys access to al-Shibh's medical records in the context of his competency to stand trial, I wondered if the defense team would continue to push for competency hearing as the trial moves to SDNY. Durkin refused to say what the team would do, but noted that since the military judge had raised the issue of a competency hearing, it is public record that it is an issue.

So expect al-Shibh's defense team, at least, to continue to push for medical records in the scope of a competency question.

Hollander, who is defending al-Nashiri, noted they, too, have been pushing for their client's medical records.

She also stated that they are going to contest the venue of the trial. Eric Holder had said a military commission for al-Nashiri is appropriate, given that the Cole bombing occurred in another country and its victims were all military. But Hollander pointed out that the Cole bombing was first investigated as a criminal case, so the only reason (she speculated) why the government would be trying him in a military commission is because they don't have the evidence to convict him in a civilian court.