

Military Commissions:
ISN 10026 Abd Al Hadi Al Iraqi, Sentencing Hearing
June 20, 2024

Events:

On June 20, 2024, the members of the Sentencing Panel for ISN 10026 Abd Al Hadi Al Iraqi, also known as Al Tamir, reached a sentencing verdict of 30 years' confinement.¹ This was the maximum number of years available to the Sentencing Panel to apply, with a required minimum sentence of 25 years of confinement.² The judge accepted the Sentencing Panel's verdict. After dismissing the Sentencing Panel, the judge interpreted the Pretrial Agreement into the record, under which the detainee pled guilty with the understanding that the Convening Authority is allowed to suspend any confinement that would continue beyond June 13, 2032.³

At no time were the terms of the Pretrial Agreement published or shared with the Sentencing Panel. No indication of the location or form of confinement that Hadi Al Iraqi will complete was placed on the record.

Observations:

While the Sentencing Panel returned the maximum verdict available, this was unlikely to have been a unanimous sentencing verdict, given that panel member 15 submitted questions while hearing testimony that leaned toward the presumption that GTMO had been negligent in or incapable of providing proper medical care.⁴ There was an absence of testimony by witnesses covering defense's efforts at obtaining medical records that would allow for the evaluation of a third country's ability to provide the detainee with proper medical care. Unless the defense included that information in the initial evidence packet, the Sentencing Panel could possibly assume that ISN 10026 will spend his incarceration at GTMO.

Hadi Al Iraqi's sentencing requirements have been the second longest to date and also exhibit the greatest variance between the maximum verdict sentenced and the sentence established by the pretrial agreement.

Majid Khan's sentence of confinement was required to fall between 25 and 40 years, and he received a near-minimum sentence with an additional undisclosed reduction in time recommended in clemency.⁵ His Pretrial Agreement also gave him credit for time served resulting in his release and transfer to the Bahamas within two years of his sentencing, ostensibly having only served half of the recommended sentence.

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- 1 "Unofficial/Unauthenticated 803 Transcript of the Al Iraqi Motions Hearing dated 6/20/2024 from 8:43 AM to 8:56 AM," located at [https://www.mc.mil/Portals/0/pdfs/allIraqi/Al%20Iraqi%20\(803TRANS20Jun2024-MERGED\).pdf](https://www.mc.mil/Portals/0/pdfs/allIraqi/Al%20Iraqi%20(803TRANS20Jun2024-MERGED).pdf), last accessed 03JUN2024.
 - 2 "Unofficial/Unauthenticated 803 Transcript of the Al Iraqi Motions Hearing dated 6/19/2024 from 12:24 PM to 1:04 PM," located at [https://www.mc.mil/Portals/0/pdfs/allIraqi/Al%20Iraqi%20\(803TRANS19Jun2024-PM-MERGED\).pdf](https://www.mc.mil/Portals/0/pdfs/allIraqi/Al%20Iraqi%20(803TRANS19Jun2024-PM-MERGED).pdf), last accessed 02JUN2024.
 - 3 "Unofficial/Unauthenticated 803 Transcript of the Al Iraqi Motions Hearing dated 6/20/2024 from 8:43 AM to 8:56 AM."
 - 4 "Questions by Panel Member 15," located at [https://www.mc.mil/Portals/0/pdfs/allIraqi/Al%20Iraqi%20\(AE289\).pdf](https://www.mc.mil/Portals/0/pdfs/allIraqi/Al%20Iraqi%20(AE289).pdf), last accessed 02JUN2024.
 - 5 "AE 077 Joint Notice Submission of Sentencing Worksheet, 19 October 2021," located at [https://www.mc.mil/Portals/0/pdfs/Khan/Khan%20\(AE077\).pdf](https://www.mc.mil/Portals/0/pdfs/Khan/Khan%20(AE077).pdf), last accessed 02JUN2024.

Bin Lep's and Bin Amin's sentences were required to fall between 20 and 25 years, and they received a sentence of 23 years each,⁶ but their Pretrial Agreements limited the maximum confinement duration to six years each reducing each of their sentences by 17 years.⁷

Hadi Al Iraqi's sentence was required to be between 20 and 30 years, and the Sentencing Panel sentenced him to 30 years with no recommendations of clemency, but his Pretrial Agreement limited the maximum duration of confinement to 10 years and backdated his service to 2022, reducing his sentence by 20 to 22 years.⁸

Given that the Sentencing Panels are instructed to consider the quadripartite purposes of a sentence (rehabilitation of the sentenced, punishment of the sentenced, protection of society from the sentenced, and deterrence of the sentenced and those considering similar acts from performing those acts), as well as mitigating factors in determining the justice of a sentence, the pretrial agreements shortening sentence duration could prove to be endangering society by preventing rehabilitation of the accused and encouraging repetition of the crimes by its leniency.

Further, since the pretrial agreements to date have all dictated confinements that are much shorter than the minimum durations the Sentencing Panels are allowed to assign, holding these sentencing hearings could be considered a waste of resources and a mark of disrespect for all the service members who are called to serve on the Sentencing Panels, whose determinations are ignored.

If these pretrial agreements are encouraged by political pressures to see the detainees cleared out of the GTMO facilities, the pretrial agreements represent corruption and a miscarriage of justice.

6 “United States v. Mohammed Farik Bin Amin, United States v. Mohammed Nazir Bin Lep Sentencing Instructions,” located at [https://www.mc.mil/Portals/0/pdfs/binAmin/59295-Bin%20Amin%20\(AE0099.002\(TJ\)\).pdf](https://www.mc.mil/Portals/0/pdfs/binAmin/59295-Bin%20Amin%20(AE0099.002(TJ)).pdf), last accessed 03JUL2024.

7 “Unofficial/Unauthenticated 803 Transcript of the Bin Amin Motions Hearing Dated 1/26/2024 from 9:10 AM to 2:57 PM,” located at [https://www.mc.mil/Portals/0/pdfs/binAmin/59123-Bin%20Amin%20\(803TRANS26Jan2024-MERGEDv2\).pdf](https://www.mc.mil/Portals/0/pdfs/binAmin/59123-Bin%20Amin%20(803TRANS26Jan2024-MERGEDv2).pdf), last accessed 02JUL2024.

8 “Unofficial/Unauthenticated 803 Transcript of the Al Iraqi Motions Hearing dated 6/20/2024 from 8:43 AM to 8:56 AM.”