

Tanzanian may face trial for war crimes



GHAILANI

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■ A military prosecutor swore out new death-penalty charges against a Guantánamo captive for war court trial in a U.S. Embassy bombing in East Africa.

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A decade after he was indicted in New York, and four years after he was taken into U.S. custody, the Pentagon announced Monday that it will seek to try a Tanzanian man for war crimes in the 1998 East African bombings.

Ahmed Ghailani, in his 30s, is accused of conspiracy, murder and providing material support for terror in the Aug. 7, 1998 suicide attack at the U.S. Embassy in Dar es Salaam, Tanzania. If convicted, he could receive the death penalty.

That day, suicide bombers simultaneously struck at the U.S. Embassy in Kenya, a coordinated precursor of the Sept. 11, 2001, attacks on New York and the Pentagon.



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Eleven Africans were killed and about 80 others were

wounded in Dar es Salaam, the Tanzanian capital.

In charging Ghailani, the 14th Guantánamo captive now facing war crimes charges, the Pentagon is illustrating its determination to press forward with war crimes prosecutions by Military Commission — the on-again, off-again war court that the Bush administration opened in August 2004 as the first U.S. war crimes tribunal since World War II.

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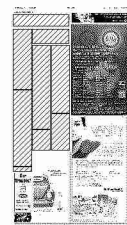
Pakistani forces captured Ghailani in raids on suspected al Qaeda hide-outs in Punjab province in July 2004.

SECRET CIA PRISONS

He spent about two years in secret CIA prisons and was sent to the U.S. Navy base in southeast Cuba in September 2006. After six months there, he confessed to unwittingly assisting in the embassy bombing in a hearing before a panel that certified him as an enemy combatant.

“It was without my knowledge what they were doing, but I helped them,” Ghailani told the panel in March 2007, according to a Pentagon transcript. “So I apologize to the United States government for what I did. And I’m sorry for what happened to those families who lost, who lost their friends and their beloved ones.”

Ghailani becomes the sev-



enth war-on-terror captive recommended for a capital case at a military commission.

The charge sheets also allege that, between 2000 and 2001, Ghailani was bin Laden's "personal bodyguard and cook" after he underwent weapons training in Afghanistan.

In New York, the Center for Constitutional Rights, whose lawyers represent dozens of the 280 or so detainees at Guantánamo, criticized the decision to prosecute Ghailani at the war court.

"The only reason the government is now militarizing these criminal acts is to hide what the CIA is doing in its interrogation program behind the secrecy of the commissions," it said in a statement.

"The entire commission process is under the influence of the Pentagon and the Executive rather than an independent judiciary. In addition, the Bush administration is using the military commissions as political theater in order to influence the presidential elections."

LIFE SENTENCES

The group noted that other bombing cases have been successfully prosecuted in criminal courts in the United States, Spain and the United Kingdom, and ended with convictions and life sentences.

The legal advisor for the war court, Brig. Gen. Thomas Hartmann, announced the charges on Monday and said in an interview that prosecutions at Guantánamo and in New York are not mutually exclusive.

"The president of the United States made a determination that the alleged war crimes that are committed in connection with the global war on terror are going to be tried at the commissions," he said.

"If the Southern District of New York wants to proceed with a trial process, they can do that."

Spokesmen at the Office of U.S. Attorney Michael Garcia in Manhattan declined to comment, as did the Department of Justice.

The five-foot four-inch Ghailani, who was born on the Tanzanian island of Zanzibar, made no claim of torture in the Pentagon transcript of his hearing, which was released with only minor redactions by the Pentagon — striking the U.S. military participants' names.

In fact, after taking a Muslim oath to tell the truth that invoked the name of Allah, Ghailani told the Navy captain in charge of the panel that he admitted to the activities without force or coercion.

DELIVERED EXPLOSIVES

Ghailani claimed that he did not conduct surveillance on the U.S. Embassy before the attack, one U.S. allegation. But, he said, he did help deliver explosives that turned a Nissan pickup into a deadly truck bomb.

Moreover, he said, he didn't realize the U.S. Embassy was the target and instead believed the explosives were bound for a diamond mine in Somalia, as well as a "training camp" in Somalia. He did not elaborate.

No war court case has been fully prosecuted. Australian foot soldier David Hicks pleaded guilty to providing material support for terrorism a year ago, served a nine-month sentence and is now free.

Osama bin Laden's driver is on track for the first full-blown commission, a late May trial on allegations he was an al Qaeda co-conspirator and provided material support for terror.

The next step for the Ghailani prosecution is that a Bush administration appointee, Susan Crawford, reviews the charges to decide whether to go forward.

She has yet to decide on a complex Sept. 11 conspiracy case — also seeking execution as the ultimate punishment — announced by the Pentagon on Feb. 11.

By commissions rules, it is now up to the Pentagon's chief defense counsel to assign him a military defense lawyer, or judge advocate general, to help him prepare for trial.

Hartmann said the counsel had sufficient staff — 11 JAGS for the 14 current cases, and that is was not uncommon for federal public defenders to defend multiple people in federal courts.