

US Defense Secretary Austin revokes plea deal with 9/11 defendants

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On Friday, US Secretary of Defense Lloyd Austin revoked a plea agreement negotiated two days earlier between prosecutors and three defendants, who have been charged with murder and conspiracy for their alleged role in the terror attacks of September 11, 2001.

In exchange for guilty pleas, the defendants—Khalid Shaikh Mohammed, Walid bin Attash and Mustafa al-Hawsawi—would have avoided the death penalty and been sentenced to a maximum of life in prison.

For their part, the US military prosecutors sought the plea agreements to move the cases forward and get around more than 10 years of military commission pretrial proceedings over the torture of the defendants by the CIA during their detention. The men were held by the US government at CIA black sites between 2003 and 2006, before they were transferred to the prison camp at Guantánamo Bay, Cuba.

The decision by Secretary Austin to relieve retired Brigadier General Susan K. Escallier of her role as the senior Defense Department official overseeing the case is both a demonstration of the lawlessness of the military commissions and a de facto endorsement of the torture by the Biden administration.

In a three-sentence memorandum signed by Austin, the defense secretary wrote:

I have determined that, in light of the significance of the decision to enter into pre-trial agreements with the accused in the above-referenced case, responsibility for such a decision should rest with me as the superior convening authority under the Military Commissions Act of 2009. Effective immediately, I hereby withdraw your authority in the above-referenced case to enter into a pre-

trial agreement and reserve such authority to myself.

Austin continued, “Effective immediately, in the exercise of my authority, I hereby withdraw from the three pre-trial agreements that you signed on July 31, 2024, in the above-referenced case.”

According to an unnamed senior Pentagon official who spoke to the *New York Times*, the decision to remove Escallier was made by the secretary alone and the White House was not involved. “The official said Mr. Austin had never supported a plea deal and wanted the military commission trials to proceed,” the *Times* report said.

Austin is supporting the torture and ongoing military commissions at Guantánamo Bay, which are operated in complete violation of fundamental democratic rights. Republican Senate Minority Leader Mitch McConnell had called the plea agreement “a revolting abdication of the government’s responsibility to defend America and provide justice.”

Fascistic Republican Senator Tom Cotton of Arkansas had called the agreement “disgraceful and an insult to the victims of the attacks.” Cotton introduced legislation aimed at overturning the plea deal.

Democratic Senator from Illinois and chairman of the Judiciary Committee Richard Durbin had supported the plea agreement as “a small measure of justice and finality to the victims [of the 9/11 terror attacks] and their loved ones,” while saying nothing about the decades-long violations of the US Constitution and international law in the proceedings at Guantánamo Bay.

A group called “September 11th Families for Peaceful Tomorrows” issued a statement denouncing

Austin's revocation of the plea deals, saying:

That the secretary has now overreached and undertaken direct oversight of the 9/11 commission is cause for enormous concern. While we understand there are family members who are opposed to plea agreements, the reality stands that the 9/11 accused were tortured and several were sodomized. If any entity is at fault for the inability to prosecute this case with a slam dunk, it's the torturers. Because of the torture, the 9/11 accused will not be put to death. And any administration official or member of Congress who says otherwise is either uninformed or politically pandering.

Anthony D. Romero, executive director of the American Civil Liberties Union (ACLU), issued a statement saying that Austin's edict prevented a guilty verdict in "the most important criminal case of the 21st century," adding that it "violates the law." He said his organization would challenge it in court.

Romero went on to write:

It's also more than a little ironic that Secretary Austin's gung-ho insistence on executing the 9/11 defendants directly contradicts the Biden Administration's public commitment to ending the death penalty. The United States has spent decades and tens of millions of dollars trying to secure a death sentence that cannot be upheld in the face of the government's torture.

The military detention, torture and prosecution of the 9/11 defendants without due process is part of the attacks by the American political system on basic democratic rights. That the unlawful treatment of the detainees at Guantánamo Bay is part of the deepening crisis of the entire US political system is shown by the fact that these prosecutions have been maintained by four different administrations, two Republican (Bush 2001-2008, Trump 2017-2020) and two Democratic

(Obama 2009-2016, Biden 2021-2024).

The rendition of the defendants to CIA black sites and their torture are not in dispute. Khalid Shaikh Mohammed, 59, a US-educated engineer and avowed jihadist, is accused of devising the plan to hijack airplanes and fly them into buildings. Prosecutors allege that he presented Osama bin Laden with the plan in 1996 and then helped train and direct some of the hijackers.

Mohammed and Hawsawi, 55, were captured together in Pakistan in March 2003. Mohammed was held in secret CIA prisons in Afghanistan and Poland, where he was waterboarded 183 times until he was transferred to the naval base at Guantánamo in September 2006.

Hawsawi is believed to have been held at CIA black sites Afghanistan and Lithuania, where he was subjected to waterboarding and rectal examinations conducted with "excessive force," which caused serious injuries for which he was denied medical attention.

Walid bin Attash, in his mid-40s, is from Yemen. Prosecutors allege he helped in the preparation of the 1998 East Africa Embassy bombings and the USS Cole bombing and was a bodyguard for Osama bin Laden. He was apprehended by the CIA in Karachi in 2003 and rendered to black sites in Afghanistan and Poland. Although Attash has only one leg, he was forced to stand in stress positions while his torturers removed his prosthetic leg.



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