



Posted on Thu, Feb. 21, 2013

## Judge: No sleepover but lawyers can spend 12 hours in Guantánamo's secret prison

By CAROL ROSENBERG  
[crosenberg@MiamiHerald.com](mailto:crosenberg@MiamiHerald.com)



MICHELLE SHEPHARD / POOL PHOTO COURTESY THE TORONTO STAR

The sun rises over a portion of the U.S. detention center that journalists are allowed to see at the U.S. Navy base at Guantanamo Bay, Cuba, on Oct. 18, 2012 in this photo cleared for release by the U.S. military.

They can't sleep over, but a judge has ordered the military to let defense attorneys spend 12 hours inside the secret prison at Guantánamo that houses alleged Sept. 11 mastermind Khalid Sheik Mohammed and his accused co-conspirators, attorneys said Thursday.

Prisoners like Mohammed, who was waterboarded 183 times in CIA custody, are kept in a clandestine compound called Camp 7 guarded by an elite unit called Task Force Platinum.

Defense lawyers wanted a two-night stay to assess conditions of confinement in the place where the Pentagon holds the five

men accused of plotting the worst terror attack on U.S. soil.

In the military, harsh pre-trial conditions can create what lawyers call a mitigating factor as they argue against these men getting the death penalty if they are convicted. These defense lawyers say their clients were tortured in U.S. custody, and the Pentagon has lost the moral authority to execute them.

Prosecutors had proposed a two-hour tour that sounded like those given to members of Congress .

But Judge James Pohl, an Army colonel, ruled Tuesday that a 12-hour stay between the hours of 6 a.m. and 9 p.m. would be sufficient.

Defense teams for each of the accused would be taken to the secret site, separately, and could speak to their client plus whomever the military designates as their escort. No more than three members of each team could go on the visit, the judge ruled, leaving it up to the lawyers to decide whether to use up one slot with a Pentagon-paid translator or mitigation

expert.

Pohl refused their request to interview guards.

The ruling itself was still under seal at the war court Thursday but two attorneys who had seen the six-page ruling described its content.

Defense teams will be allowed to take pictures and make sketches, diagrams and notes during their visit, the judge ordered. But they must submit those materials for an intelligence inspection to determine which part would be stamped Top Secret.

Either way, the judge forbade prosecutors from looking at it, as protected attorney-client work product.

Pohl issued the order a week after Camp 7 prison camp guards searched the cells of the Sept. 11 prisoners and seized a range of materials from a photo of the Grand Mosque in Mecca to a former FBI agent's memoirs to toilet paper with English words scrawled on it. The guards also confiscated some captives' privileged attorney-client documents, which a prison camp lawyer said were reviewed for appropriate markings and would be returned.

---

© 2013 Miami Herald Media Company. All Rights Reserved.  
<http://www.miamiherald.com>