WAR ON TERRORISM

Padilla sentencing hearing echoes trial

As Jose Padilla's sentencing hearing began, prosecutors and defense lawyers rehashed evidence from the trial in which he was convicted on terrorism-conspiracy charges.

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It was supposed to be a sentencing hearing for Jose Padilla and two others convicted last summer of terror-conspiracy charges. But Tuesday's federal court proceeding felt more like their marathon trial.

The sentencing hearing, which could last through the end of the week, pitted defense lawyers against prosecutors as they rehashed evidence about the defendants' support for Islamic holy wars abroad — findings that were settled in August by a Miami-Dade jury after a four-month trial.

Defense lawyers for Padilla's Fort Lauderdale area recruiter, Adham Amin Hassoun, strived to argue that a pre-sentencing report calling for life in prison was riddled with factual errors — 90, to be exact.

PADILLA

Attorney Ken Swartz argued the court's probation office distorted the definition of "jihad," which in the pre-9/11 era was really about Muslims like Hassoun coming to the aid of their people in conflicts in Afghanistan, Chechnya, Bosnia and other ethnic hot zones. "They have taken a period of history and completely rewritten it," said Swartz, bemoaning the probation office's report linking such humanitarian efforts to Islamic extremists such as al Qaeda.

But prosecutor Brian Frazier countered that Swartz was recasting the conclusions of a 12-member jury that found Padilla, Hassoun and his colleague, Kifah Wael Jayyousi, guilty of conspiring to commit murder abroad and providing material support such as money, equipment and personnel toward that goal from 1993 to 2001.

"We will be here for another four months if the defense tries to undercut the government's evidence piece by piece," said Frazier, who argued the defendants' aid for Islamic causes "all wasn't about widows and orphans."

U.S. District Judge Marcia Cooke gave both sides wide latitude to debate the probation office's report, which serves as a basis for her decision on the defendants' punishment. Although it is not a public record, passages of the report will be aired in court as Hassoun, Padilla and then Jayyousi voice their opposition to it.

In pre-sentencing court documents, the probation office calculated that Hassoun and Jayyousi should receive life in prison, citing their leadership roles in a North American cell with ties to South Florida and an "enhancement" for the terrorism convictions.

Padilla, a former Broward County resident who trained at an al Qaeda camp in Afghanistan in 2000, should receive 360 months to life, the office concluded, noting he was a recruit and therefore had no leadership role.

In court papers, defense lawyers argued for more lenient sentencings: Hassoun, 51 to 78 months; Jayyousi, probation; and Padilla, up to 120 months.

Padilla's attorneys cited a 2004 law passed by Congress that imposed 120 months as a maximum for anyone convicted of receiving military training from a foreign terrorist organization.

Prosecutor John Shipley described the alternative sentences as "absurd," writing that "these arguments demonstrate again that the defendants still have no conception of the seriousness of their crimes."

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