



Written by [Joe Wolverton, II, J.D.](#) on November 22, 2009

## Hearing Finds Probable Cause in Hasan Case

In a gambit he must have known was futile from its inception, John Galligan, attorney for accused Ft. Hood murderer Nidal Hasan, played upon the sympathy of the military magistrate presiding at a pre-trial confinement conference held in Hasan's hospital room on Saturday.

Predictably, the judge was unmoved by Galligan's pleas on behalf of his client. He ruled that Hasan may stay in his room at the Brooke Army Medical Center on Ft. Hood, Texas, only at the pleasure of the Army and the Judge Advocate General staff that will soon prosecute him for the 13 murders he allegedly committed on November 5 at a processing center on the post. Additionally, the magistrate held that there was probable cause to believe that Hasan was the shooter responsible for the November 5 shooting spree.



During the hearing, Galligan was informed by army prosecutors that Hasan would likely face other charges related to the shooting spree. While it was not revealed exactly what the new charges will be, Galligan announced to the press after the hearing that his client would be pleading not guilty to all charges, as well as hinting that the affirmative defense of insanity would likely be asserted. "I'm fairly confident that that's going to have to at least be examined. And that's problematic. But we haven't reached that stage yet," Galligan explained to reporters gathered outside Hasan's hospital.

According to arguments presented by Galligan in Saturday's hearing, Hasan is in severe and constant pain and is paralyzed from the chest down as a result of four gunshot wounds. The bullets were fired by civilian police attempting to subdue Hasan as he ran from the deployment center that was the scene of the massacre. "He is an individual in need of constant medical attention," Galligan said. "He has no sensation from his chest down." Galligan had previously claimed that Hasan was paralyzed from the waist down, indicating that he probably knows less of his client's precise medical condition than he infers by his comments to the media.

Galligan surprised even cynical journalists by brazenly complaining about (as he perceives it) the unnecessary haste with which the judicial process is being pursued. "In the 36 years I've dealt with military justice cases," Galligan said, "this is the first time I have ever had to go to an ICU to conduct a hearing. We could have conducted this hearing next week. He is paralyzed. He is not going on leave."

While unable to move, Hasan is reportedly lucid; he is capable of speaking and communicates meaningfully with his doctors and his lawyer. Hasan is aware of the situation and the charges he faces, as well as the process underway regarding the requisite preliminary hearings that must occur before facing the tribunal to answer for his actions of November 5. This latest hearing lasted about an hour



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and taxed the limits of Hasan's endurance, his defense attorney said.

When asked whether the Army anticipated moving Major Hasan from the intensive care unit of the Brooke Army Medical Center to a prison hospital or other facility, an Army spokesman refused to answer. Galligan insists that the Judge Advocate General officers assigned to the case must notify him immediately if they intend to request that Hasan be discharged from Brooke.

Whether the Army will comply with that demand is unclear as one of the results of Saturday's hearing was to re-classify Hasan's legal status from "pre-trial restriction" to "pre-trial confinement." As such, the number of visitors permitted to see Hasan as well as the length of those visits are restricted and are overseen by military officials.

Galligan, a retired Army Colonel now in private practice, continued arguing the case in a press conference held outside the hospital immediately after the hearing concluded. "There was not a compelling government interest to change his status at this time. Given that condition, why is he anything but a patient?" he asked.

Perhaps Galligan's zealous representation of Nidal Hasan has desensitized him to the irrefutable fact that as a result of the murderous rampage of which his client is accused, there are at least a dozen wounded soldiers being treated in hospitals around Central Texas, many of whom will have permanent wounds and will never recover from the injuries suffered that day in November.

*Photo of Hasan: AP Images*

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