

Even If Hasanâ€™s Convicted, a Long Road to Death Row Awaits

By Marylee Williams
In the opening statement at his court-martial, Maj. Nidal Hasan said, "The evidence will clearly show that I am the shooter." While the case against Hasan, the Army psychiatrist accused of killing 13 people at Fort Hood in 2009, appears simple, punishment may not be swift. Hasan faces the death penalty or life without parole. According to the Death Penalty Information Center (DPIC), since 1916, the U.S. Army has executed 135 people, but it's been a while since that number changed. The most recent military execution was over fifty years ago. Army Private John Bennett hung in 1961 for a convicted rape and attempted murder. The military still convicts soldiers and issues the death penalty, but those sentences are often lessened to life without parole during the appeals process. DPIC executive director Richard Dieter says he believes the military mentality is one factor affecting execution rates. "I think the military is closer to a family than a government or a state. There's mutual support, mutual understanding," Dieter says. "There is punishment for offenses, but taking the life of a soldier, I think, is a big step for the military." However, former U.S. Army Judge Advocate General's Corps attorney Greg Rinckey, attributes the reluctance to a lengthy appeals process and inexperienced defense attorneys. "In the military, it's not that often that the death penalty is litigated," Rinckey says, "and the lawyers that handle the cases, to a certain extent, have not had the appropriate training. And if they're not death qualified that's almost an automatic reason to overturn a case on appeal." Here are some other ways Hasan's court martial differs from a civilian trial:

Pleading
: Civilian defendants will often plead guilty to lessen sentencing severity. The U.S. Army doesn't allow defendants to plead guilty in trials seeking the death penalty.

Jury

: In a civilian criminal trial, a 12-person jury hands down a verdict. Hasan's military jury, also known as a panel, consists of 13 U.S. Army officers that hold the rank of Major or higher.

Verdict & Sentencing

: The Fort Hood military jury must unanimously find Hasan guilty and sentence him to the death penalty.

Chain of Approval

: Similar to the civilian court system, there are a number of appeals before carrying out an execution. But in the military, higher authorities have the power to reduce a sentence. If Hasan is found guilty, the convening authority must approve the sentence. After the appeals process, the President himself has to approve the execution.

If sentenced to death, Hasan won't be the sole resident on military death row in Fort Leavenworth, Kansas. Five other inmates, whose sentences span almost two decades, are also awaiting the death penalty. "There is a chance he could be executed before one of the

other soldiers, but I think it all depends on what happens in the appeals process,” Rinckey says. “We’re looking at quite a long time before we get to execution, if he’s found guilty.”