

Fort Hood Shooting Victims: Time for Justice

By Philip Jankowski After more than 3½ unpredictable years of legal wrangling, appeals, surprises and the possible inclusion of a former U.S. attorney general, the trial of Maj. Nidal Hasan is about to begin. Jury selection starts Tuesday in the court-martial of the Army officer accused of the deadliest mass shooting on a U.S. military base. For at least one victim, the various delays have been painful. “Imagine you were a child wishing for a Christmas that never comes,” said Alonzo Lunsford, who was shot multiple times Nov. 5, 2009. “When it was delayed, that hurt me, that hurt me. I felt let down.” Lunsford is set to be the prosecution’s leadoff witness when testimony begins Aug. 6. Though all hurdles leading up to Hasan’s trial appear cleared, Lunsford said he is not allowing himself to get too excited that the court-martial will begin. Army officers from across the nation are being flown to Fort Hood to possibly become part of the panel that will decide whether Hasan should be set free, jailed for life or executed. Death Penalty

Hasan’s trial likely would have ended years ago had the government decided to not seek the death penalty. Capital cases carry greater scrutiny, with guaranteed safeguards built into the system should the trial be carried out improperly. Death sentences are overturned at a high rate in courts-martial, leading the presiding judge to take more time to make sure any conviction stands. The military has not executed anyone since 1961, and more than half of the death sentences in the past 25 years have been commuted to life in prison. Despite the military’s recent history with death penalty convictions, several military law experts said they feel keeping execution on the table is required in Hasan’s case. “If ever there was a case that was appropriate for the death penalty, this is the case,” said Lisa Windsor, a retired colonel who spent 22 years in the Judge Advocate General’s Corps. “The government has sufficient evidence to secure a conviction. More importantly, the victims and their families have waited too long and deserve to see this case to a conclusion that subjects Maj. Hasan to the ultimate punishment. It is the only course of action that serves the ends of justice.” Nov. 5, 2009

Hasan, 42, is charged with 13 counts of premeditated murder and 32 counts of attempted premeditated murder, one charge for each person slain or wounded during the Nov. 5, 2009, shooting rampage at the Soldier Readiness Processing Center on post. Scores of soldiers and Army personnel were in the building where the majority of the shooting took place. Like Hasan, most were preparing to deploy to Afghanistan. Hasan allegedly opened fire on soldiers who were waiting at a crowded station where soldiers were required to file paperwork. Over several minutes, the major was heard yelling “Allahu Akbar” — Arabic for God is great — as he fired more than 100 shots with a laser-sighted handgun. The rampage ended when Fort Hood police officer Sgt. Mark Todd shot Hasan multiple times, leaving the Army psychiatrist paralyzed from the chest down. Since Hasan was arraigned in 2011 and the Army authorized the death penalty as a possible sentence, the trial has faced several stops and starts along with intense scrutiny from many who have grown more frustrated as delays mounted. Beards and Judges

Hasan fired all of his attorneys, including three Army officers who had earned Hasan several legal victories. They were successful in having the first judge assigned to the case, Col. Gregory Gross, ousted over issues regarding Hasan’s decision to defy military regulations

and wear a beard for what he claimed were religious purposes. Gross repeatedly held Hasan in contempt of court for refusing to obey his order to shave. When he finally ordered Hasan to be forcibly shaved by an Army team, the case became embroiled in appellate courts. That order led to a nearly yearlong delay. A high military court ultimately ruled Gross showed a possible bias against Hasan for repeatedly holding him in contempt, and that Hasan's decision to wear a beard had created an adversarial relationship between the two. The Army wasted little time in assigning a new judge, Col. Tara Osborn, to the case. However, Osborn required months to review the case and the more than 350 filings submitted by the prosecution and the defense. She granted reconsideration of several motions Gross previously ruled upon, while allowing lawyers to continue to argue over new issues. During that time, the relationship between Hasan and his attorneys appeared to have been riven over Hasan's insistence on putting on a "defense of others" strategy. Hasan planned to justify the mass shooting as an attack against soldiers he believed would kill fellow Muslims in the war in Afghanistan, which Hasan insists is illegal. Hasan's former defense attorney John Galligan, a retired colonel, said Hasan asked his lawyers to research the "defense of others" strategy about two years ago. Hasan fired them because they refused to do so. They remain Hasan's standby counsel, available to help him at any time. But they have shown their displeasure with being associated with Hasan. All three officers assigned to his defense asked to be dismissed from the case. They then withdrew their requests when the judge ruled Hasan's defense was inadmissible, but not before filing paperwork that called it "repugnant, imprudent and potentially criminal." "Nidal Hasan is going to be a better advocate for himself, because his lawyers have abandoned him," Galligan said. He now faces the possibility of having former U.S. Attorney General Ramsey Clark represent him. Clark was attorney general under President Lyndon B. Johnson and has since defended accused war criminals, including Saddam Hussein and Slobodan Milosevic. Clark and Hasan have spoken over the phone multiple times since Clark reached out to the Army psychiatrist a few weeks ago. They met in person Saturday. How Clark's involvement in the case would affect the trial remains unknown. The lead witness in the case, whom Hasan is accused of shooting seven times, said he was worried Clark's involvement could delay the case again. "The good thing about it is Ramsey is good, but he is not a starter," Lunsford said. "He has come in as a sub."