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U.S. Wants Australian to Face Tribunal

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WASHINGTON -- Armed with a favorable ruling from Supreme Court nominee John Roberts and two other judges, the Bush administration argued Thursday that an Australian detainee held at Guantanamo Bay must undergo trial by military commission.

David Hicks is accused of having fought alongside the Taliban against U.S. forces in Afghanistan. He is charged with conspiracy, attempted murder and aiding the enemy.

In court papers, the Justice Department drew heavily from a July 15 ruling by a three-judge appeals panel that included Roberts. In that case, involving a former driver for Osama bin Laden, the appeals court upheld President Bush's view that the Geneva Conventions on treatment of prisoners of war do not apply to detainees captured in the U.S. war on terror. Bush created the military commission system after the Sept. 11 attacks.

The Pentagon says Hicks participated in al-Qaida operations against the United States and its military allies in Afghanistan in late 2001. The Justice Department identified the first week of October as the earliest time for Hicks' trial to begin.

Hicks has been put on the defensive by the ruling in which Roberts and two other appeals court judges rejected the arguments of Salim Ahmed Hamdan, a Yemeni whose challenge to the legality of the trial system was initially upheld last year.

Hicks, Hamdan and two other suspects face commission trials and the Pentagon is preparing charges against eight others detained at the military prison in Guantanamo Bay.

The Pentagon-appointed lawyer for Hicks, Maj. Michael Mori, says the Australian government should withdraw support for the trials, based on allegations from two prosecutors last year that the system was rigged in favor of the government.

The two accused fellow prosecutors of ignoring torture allegations, failing to protect evidence that could help defendants establish a defense and withholding information from superiors. The Pentagon says an inspector general's report found the allegations to be without merit.