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## High Court Asked to Take Guantanamo Case

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WASHINGTON -- Lawyers for a Guantanamo detainee asked the Supreme Court on Monday to consider blocking military tribunals for terror suspects, and overturn what they called an extreme ruling by high-court nominee John Roberts.

Roberts was on a three-judge federal appeals court panel that last month ruled against Salim Ahmed Hamdan, a Yemeni who once was al-Qaida leader Osama bin Laden's driver.

Hamdan's attorneys told justices that the appeals court gave the White House authority "to circumvent the federal courts and time-tested limits on the executive."

"No decision, by any court, in the wake of the Sept. 11, 2001, attacks has gone this far," wrote Hamdan attorney Neal Katyal, a law professor at Georgetown University.

The Pentagon maintains it has the authority to hold military commissions, or tribunals, for terror suspects like Hamdan who were captured overseas and are now being held at Guantanamo Bay, Cuba.

A lower-court judge ruled against the government, but Roberts and two other judges on the U.S. Court of Appeals for the District of Columbia Circuit disagreed. That opinion was written by Judge A. Raymond Randolph, who was named to the court by the first President Bush.

The ruling was handed down shortly before Roberts was named to the Supreme Court, to replace retiring Justice Sandra Day O'Connor.

O'Connor has been skeptical of government wartime powers. In 2004, she wrote that "a state of war is not a blank check for the president when it comes to the rights of the nation's citizens."

The appeals court said last month that the 1949 Geneva Conventions governing prisoners of war does not apply to the al-Qaida network and its members.

Katyal maintained that the decision "radically extended legal precedents set during conventional wars."

The court "held that the president has the power to decide how a detainee is classified, ... how he is treated, what criminal process he will face, what rights he will have, who will judge him, how he will be judged, upon what crimes he will be sentenced, and how the sentence will be carried out," Katyal wrote.

Hamdan, who was captured in Afghanistan in November 2001, denies conspiring to engage in acts of terrorism and denies he was a member of al-Qaida.

His trial was halted last fall when a district court ruled that Hamdan could not be tried by a U.S. military commission unless a "competent tribunal" determined first that he was not a prisoner of war under the Geneva Conventions.

Hamdan "asks simply for a trial that comports with this nation's traditions, Constitution, and commitment to the laws of war, such as a court-martial," Katyal said in the appeal.

