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Chinese Muslims in Limbo at Guantanamo

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Associated Press
December 23 2005
(Article appeared in Los Angeles Times, Forbes online)

WASHINGTON — Two Chinese Muslims can be held indefinitely in the U.S. military prison at Guantanamo Bay, Cuba, even though their confinement is unlawful, a federal judge ruled Thursday.

Abu Bakker Qassim and A'Del Abdu Al-Hakim, who were captured in Pakistan in 2001, had asked to be released after the government determined nine months ago that they were not "enemy combatants."

U.S. District Judge James Robertson, who has criticized the government for holding the two ethnic Uighurs, said their "indefinite imprisonment at Guantanamo Bay is unlawful."

At the same time, he said, the federal courts have "no relief to offer" the two men.

Although the Supreme Court has said the courts can determine the legality of holding enemy combatants, Robertson said there was no guidance on what to do with detainees who were no longer considered enemy combatants and had no country in which to return.

Qassim and Al-Hakim were captured in 2001 as they fled a Taliban military training camp where they were learning techniques they planned to use against the Chinese government. As Uighurs, the two say they fear torture or death if they are returned to China.

Uighurs are Turkic-speaking Muslims in western China who have a language and culture distinct from the majority Chinese. The men have said they have no quarrel with the United States.

Robertson previously had raised the possibility of releasing them in the United States, which would have been an unprecedented step in the legal battles surrounding the Bush administration's treatment of detainees.

"An order requiring their release into the United States — even into some kind of parole 'bubble,' some legal-fictional status in which they would be here but would not have been 'admitted' — would have national security and diplomatic implications beyond the competence or the authority of this court," Robertson said in a memo accompanying Thursday's ruling.

"It appears to be undisputed that the government cannot find, or has yet not found, another country that will accept the petitioners."