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New York Judge Orders Release of Guantanamo Detainee IDs

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NEW YORK -- The Department of Defense must release the identities of hundreds of Guantanamo Bay, Cuba, detainees, a judge said Monday.

U.S. District Judge Jed S. Rakoff said the government must provide The Associated Press with unredacted copies of transcripts and documents related to 558 military hearings in which detainees were permitted to challenge their incarcerations. Most of the hundreds of prisoners at the U.S. prison camp in eastern Cuba have been held since investigations were begun into the Sept. 11, 2001, attacks without being charged or publicly identified, which has troubled human rights groups.

The AP filed its Freedom of Information Act lawsuit seeking the documents last year. The government then turned over the transcripts of 558 tribunals but redacted facts about each detainee's identity.

Earlier this month, the judge rejected government arguments that the detainees' names should be kept secret to protect their privacy rights. He gave the government an opportunity to change his mind a final time.

In response, the government argued that releasing the identities could subject the families, friends and associates of the detainees to embarrassment and retaliation.

In a written ruling Monday, the judge said the government had never properly raised the argument before and, even if it had, it must be rejected because the government had not remotely proved it.

"It is theoretically possible, of course, that the family of a detainee may not want his or their names and whereabouts revealed because of fears of embarrassment or retaliation; but how can this be said to be a privacy interest, when they never had any reasonable expectation that the detainee and/or his captors would not reveal his and their names?" the judge wrote.

He noted that each detainee was given the option not to testify before the tribunal and was not required to divulge identifying information about religion, background or associates.

He said the government had not introduced "the slightest evidence" that detainees or their families were likely to suffer embarrassment or retaliation but had relied upon "wholly conclusory and grossly speculative assertions."

Many of the detainees were captured in Afghanistan. They are from there, the Persian Gulf, Russia and other countries.

A spokeswoman for federal prosecutors, Heather Tasker, said Monday the government had not seen the ruling and had no response.

AP attorney David A. Schulz said the government was expected to appeal.

"The judge has rejected the defense department's effort to use the privacy interests of detainees to prevent the public from learning information about the actions taken at Guantanamo Bay," he

said. "The order is important because Judge Rakoff rejected the notion that the department was entitled to categorically exempt from disclosure personal information from all detainees on blanket claims of privacy."

The judge gave the government until Wednesday to announce its intention to appeal and to ask him to suspend his order until an appeal can be heard by the 2nd U.S. Circuit Court of Appeals.

Last year, the judge ordered the government to ask each detainee whether he or she wanted personal identifying information to be turned over to the AP as part of the lawsuit.

Of 317 detainees who received the form, 63 said yes, 17 said no, 35 returned the form without answering and 202 declined to return the form.

The judge said none of the detainees, not even the 17 who said they did not want their identities exposed, had a reasonable expectation of privacy during the tribunals.