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Sen. Levin's Law Involved in Detainee Lawsuit

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WASHINGTON (AP) - A newly enacted federal law that could void hundreds of pending lawsuits filed by detainees held at Guantanamo Bay, Cuba, is at the center of a case before a U.S. appeals court.

Lawyers for the Bush administration contend the Detainee Treatment Act, signed by President Bush on Dec. 30, retroactively wipes out more than 200 lawsuits filed on behalf of over 300 detainees who are challenging the legality of their detentions.

But attorneys for the detainees argue that the law does not require dismissal of the lawsuits and want a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit to find it unconstitutional.

The Detainee Treatment Act was a compromise reached among Sens. Carl Levin, D-Mich., Lindsey Graham, R-S.C., and Jon Kyl, R-Ariz. The act bars detainees from filing habeas corpus petitions used to fight unlawful detentions, although it allows them to appeal the rulings of military tribunals to the federal courts.

Lawyers for the detainees and Levin say the new law does not cover pending cases. Graham, Kyl and the Bush administration insist that it does.

The three-judge panel hears arguments Wednesday, with a ruling expected at a later date.

Solicitor General Paul Clement, the administration's chief lawyer, said in court papers that the lawsuits filed by the Guantanamo Bay prisoners have disrupted the military's efforts to gather intelligence on terrorism from them.

Clement complained that the military had to build special facilities for detainee lawyer visits and that prisoners want high-speed Internet access for their lawyers.

"This ... litigation has consumed enormous resources and disrupted the day-to-day operation of the Guantanamo Naval Base," Clement wrote. "Perhaps most disturbing, the ... litigation has imperiled crucial military operations during a time of war."

Detainee lawyers led by Thomas B. Wilner said the administration has done everything it could to avoid review of its actions in holding the detainees without charges, despite a 2004 Supreme Court ruling that cleared the way for the prisoners to file lawsuits challenging their detentions.

Wilner said Congress did not intend to force dismissal of all of the pending detainee lawsuits, as Clement insists.

But if it did, Wilner said, Congress overstepped its authority. Under the Constitution, he said, Congress may bar such legal challenges to detention only in cases of "rebellion" or "invasion."

"There is no rebellion or invasion, and no one in Congress suggested there was," Wilner wrote.

The detainees' lawyer also noted that many of the prisoners who have filed lawsuits were taken into U.S. custody in Afghanistan and Pakistan after the American military offered to pay "bounties" to local tribesmen for the capture of suspected Arab terrorists.

"Uncertainty about the true nature of the detainees at Guantanamo -- a concern that, in many instances, the U.S. simply got the wrong guy -- has pervaded the highest echelons of the military at Guantanamo," Wilner wrote.

Some 500 detainees are held at the Guantanamo Bay prison, which opened in January 2002 to hold suspected al-Qaida and Taliban operatives as "enemy combatants" indefinitely without charges.

Since the 2004 Supreme Court decision, the U.S. military has conducted administrative hearings for all of the detainees to determine whether they are enemy combatants.

In court papers, Clement said those hearings have provided detainees with "substantial procedural protections."