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## White House Defends Course on Detainees

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The Bush administration asked the Supreme Court on Wednesday to turn away a challenge to the military commissions the Bush administration created to put some detainees at Guantanamo Bay on trial for war crimes.

Lawyers for Salim Ahmed Hamdan are seeking Supreme Court review of an appeals court decision in which Judge John Roberts sided with the other two judges in favor of the Bush administration.

While the Hamdan case was pending last April, Roberts began interviewing with administration officials for a possible Supreme Court spot. Democratic senators Charles Schumer of New York and Russ Feingold of Wisconsin have said they want to ask Roberts about a possible conflict of interest.

The senators said it raises ethical issues to continue to work on a case in which one of the parties is considering you for another position.

In its brief to the Supreme Court, the Justice Department said the trial of Hamdan, a Yemeni who once was al-Qaida leader Osama bin Laden's driver, should be allowed to proceed and said he will have ample opportunity later to raise any legal objections. Even if acquitted at trial, he will still be detained as an enemy combatant, the department said.

Hamdan's lawyers object to the possibility that classified documents will be introduced against him at trial and that he would not be given access to the information.

It is entirely possible that no classified material would be presented by the prosecution, the government said in asking the Supreme Court not to hear Hamdan's case.

The Justice Department pointed out that the Pentagon relaxed the rules for tribunals a week ago, enabling classified information to be shared with defendants "to the extent consistent with national security, law enforcement interests and applicable law."

The rewritten rule also bars the admission of classified information if it "would result in the denial of a full and fair trial."

The rule changes also mean that the makeup of the tribunal hearing Hamdan's case is likely to change, overcoming another of Hamdan's objections, said the Justice Department.

Hamdan was not allowed to be present when his lawyers challenged the impartiality of the U.S. military officers sitting on the commission that was to hear Hamdan's case.

Under the new rules, the presiding officer is more like a judge in a court martial or civilian court and is required to rule on all questions of law; the other members of the commission will function more like a jury and are no longer permitted to participate in deciding most legal questions.

The shift in responsibilities is likely to result in replacing the other members of the commission. They were the ones challenged by Hamdan's lawyers, so the fact that Hamdan was not allowed

to be present when their impartiality was called into question is no longer an issue, the department said.