

The following text may be printed, copy/pasted, or downloaded and emailed.

Bush should obey Geneva Conventions

Editorial
New York Newsday
November 10, 2004

President George W. Bush should stop flouting federal and international law over the legal status of detainees in U.S. custody at Guantanamo Bay, Cuba. The administration needs to move beyond the impasse that has now dragged on for three years. Bush should abandon his attempt to operate an alternative justice system for enemy combatants beyond the reach of any authority other than his own.

The White House lost the latest skirmish Monday, when federal Judge James Robertson halted the first trial before a military commission at Guantanamo, ruling that it violated both federal and international law. The ruling turned on the same two issues that keep coming back to bite the administration: How to determine who is a prisoner of war and how to handle evidence the administration wants kept secret.

Robertson ruled that under the Geneva Conventions, Salim Ahmed Hamdan must be presumed to be a POW unless a "competent tribunal" finds that he doesn't deserve that designation. The judge said, too, that U.S. law requires trials for POWs conducted under the rules of the Uniform Code of Military Justice, which, unlike Bush's commissions, don't give the administration carte blanche to use evidence that a defendant will never see or hear.

The administration says it will appeal. It insists still that the president has the unassailable power to designate anyone he believes to be in league with al-Qaida as an enemy combatant, that once that label is affixed the Geneva Conventions don't apply, and that the federal courts are wrong to interfere with military commissions.

This is a legal battle the White House should lose. By thumbing its nose at international law it emboldens others to do the same, and that endangers U.S. service men and women who fall into enemy hands.