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Feds Push Dismissal of Detainee Cases

Terry Frieden
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WASHINGTON (CNN) -- The Justice Department Wednesday asked a federal appeals court to dismiss lawsuits by Guantanamo Bay detainees, arguing a law passed in December takes away the prisoners' right to bring their cases before the court.

The government filing to the U.S. Court of Appeals in the District of Columbia is the third -- and presumably final -- such argument made by the Justice lawyers following similar documents filed in detainee cases at the U.S. Supreme Court and the U.S. District Court.

The government has now stated its case at all levels of the federal judiciary, insisting that the Detainee Treatment Act of 2005 is clear in its language that "no court, justice or judge shall have jurisdiction to hear or consider" cases filed by the alien detainees held at the U.S. military's base in Guantanamo Bay, Cuba.

At issue are about 200 cases in which some 300 detainees are challenging the U.S. government's right to continue holding them.

Attorneys for the detainees insist the cases were in the judicial pipeline when the law was passed and that it does not apply retroactively. One of the principal lawmakers involved in the law's passage, Sen. Carl Levin, a Michigan Democrat, has supported their contention.

In a related filing, the Justice Department argued Wednesday that the fate of two detainees, Abu Bakker Qassim and Adel Abdu Al-Hakim, must remain in legal limbo in Guantanamo.

The government says the new law will remove any court jurisdiction in their case, but their situation is unique.

The United States says the two are Chinese citizens from an ethnic minority, so they cannot be sent home without facing the possibility of retribution.

The United States says Qasim and Al-Hakim are no longer deemed enemy combatants, even though they once trained in Afghanistan terrorist camps under control of the Taliban.

The government is willing to release the two men if another country takes them in, but the Justice document says months of diplomatic efforts have failed to find any nation willing to do so.