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## **Detainees' Endless Nightmare**

Editorial  
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Last June, the U.S. Supreme Court ruled that the hundreds of terror suspects held for years at Guantanamo Bay, Cuba, are entitled to challenge their open-ended imprisonment. Under our constitutional system, that broad-brush decision was supposed to settle the matter.

But seven months later, the Justice Department continues to ignore directives it doesn't want to follow, using circular legal logic to assert that although detainees can challenge their confinement, judges shouldn't support those challenges. The Bush administration's hope is to win rulings that erode the principle the Supreme Court advanced and, in the meantime, delay releasing or trying the detainees.

The strategy is paying off. In recent weeks, two federal judges in the same Washington, D.C., courthouse issued virtually opposite decisions on the rights of Guantanamo detainees. Those rulings ensure a new round of appeals and, for the detainees, that no end to their confinement is in sight.

In the most recent decision, U.S. District Judge Joyce Hens Green on Monday rejected the administration's argument that the detainees are beyond the reach of American law. She also declared unconstitutional the tribunals that the military convened over the summer in the hope of satisfying the Supreme Court's ruling. Green insisted that federal judges instead must decide on the legality of each detention.

But one of Green's colleagues, Judge Richard Leon, reached the opposite conclusion last month in another case. Leon conceded that Guantanamo prisoners have a right to file a petition for habeas corpus but disputed that they have a right to obtain one, because they are not being held on American soil — reasoning akin to saying sure, you can file the petition, but we're just going to drop it in the round file.

A federal appeals court will probably decide which view will prevail. The Supreme Court could decide to revisit the issue as well.

Common sense and human decency should point appeals courts toward acknowledging that these detainees have the right to legal due process and to humane treatment. Meanwhile, there seems no end to the creative humiliations inflicted on them. According to an account late last month in the New York Times, female interrogators at Guantanamo allegedly tried to break Muslim male prisoners by sexually touching them and, in one case, by smearing a man's face with red ink that he was led to believe was menstrual blood. This followed charges by Red Cross officials that Guantanamo doctors had withheld medical treatment in an effort to persuade prisoners to cooperate and that military officials applied psychological and physical coercion "tantamount to torture." Until federal judges demand fair treatment for these prisoners in court, forcefully and with one voice, more of the same will occur in Guantanamo's cells.