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Guantanamo Review Tribunals Press Ahead

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GUANTANAMO BAY NAVAL BASE, Cuba - Shackled in front of a three-member panel, Guantanamo detainees continued to go before military tribunals Tuesday despite a landmark ruling that could halt the proceedings and future trials.

A federal court in Washington ruled Monday that Salim Ahmed Hamdan, the 34-year-old Yemeni driver of Osama bin Laden, should not be tried by a military commission until its rules conform to the established code of military justice. It also said he is entitled to a hearing on whether he is a prisoner of war.

The U.S. government said it would seek a stay of that ruling and file an appeal. The hearings would continue until further guidance is issued, Lt. Gary Ross, a spokesman for the review tribunals, said.

The decision threw into question U.S. plans to try alleged terrorists as "enemy combatants," a status that affords them fewer legal protections under the Geneva Conventions than POWs. The some 550 prisoners at this U.S. outpost were declared enemy combatants by the United States before they arrived in Guantanamo Bay.

Some of the prisoners from more than 40 countries have been held for nearly three years, but few have had access to attorneys.

U.S. District Judge James Robertson in Washington also ruled that Hamdan - and potentially all other prisoners - has the right to confront the evidence and witnesses in the case against him.

If the Guantanamo detainees are ultimately determined to be POWs entitled to trial by court-martial, they would have different standards for evidence and could appeal to the Supreme Court.

Wearing a white skull cap and scratching his beard with shackled hands, another Yemeni went before a tribunal Tuesday, admitting that he was a fighter for Afghanistan's ousted Taliban regime but denying that he fought against U.S.-led forces in Afghanistan.

In a trailer with an American flag tacked to the wall, the detainee told the panel he finished high school in Yemen then went to Afghanistan after a religious leader issued a fatwa, or religious edict, ordering Muslims to help the hard-line regime.

The U.S. government alleges he trained at the al-Farouq camp in Afghanistan where he was taught how to use assault rifles and grenades. He also allegedly manned battle posts in Bagram and Jalalabad.

"I didn't do anything against the United States or its allies," said the man, whose name journalists are prohibited from releasing. "I never saw Americans in Afghanistan so how could I be an enemy combatant?"

Panel members quizzed the Yemeni on why he left his country, how he traveled to Afghanistan and the details of his training and duties for the Taliban.

No questions were asked about whether the religious edict that brought him to Afghanistan instructed him to fight U.S. forces.

The review hearings began July 30, a month after a Supreme Court ruling that cleared the way for Guantanamo detainees to challenge their detentions in U.S. courts.

More than 300 prisoners have gone through the tribunals so far but only one man - a Pakistani - was released.

Many of the men were declared enemy combatants because they were aligned with the Taliban or al-Qaida - declared enemies of the United States since the Sept. 11 terror attacks.

Robertson's ruling suggested some may still be entitled to POW status.

Although journalists are allowed to attend review hearings, they are not allowed to choose which they witness. The government says they have a limited number of escorts for the media.

Despite a Freedom of Information Act request filed by The Associated Press, the government has not provided transcripts of the prisoners' testimonies for sessions journalists cannot attend.

More than 30 percent of the prisoners have refused to attend the tribunals.

The prisoners who go before the tribunals are only allowed to be present for the unclassified portions of evidence read.

Robertson's ruling also said Hamdan - and potentially all other prisoners - have the right to confront evidence and witnesses.