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Guantanamo detainees' rights A case for judicial oversight

Editorial
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So, it turns out that the U.S. Supreme Court wasn't joking after all. So says a federal judge in Washington, who just upheld a core American value by affirming that detainees at Guantanamo Bay, Cuba, must be treated fairly.

Only two weeks earlier, another federal judge seemed ready to turn the detainees' court appeals into a game of legal bait-and-switch.

The two decisions take opposing stances on the detainees' legal rights. That means the Supreme Court must take another, closer look soon.

In June, the high court ruled that hundreds of suspects swept up in the Afghanistan war had a legal right to challenge their detention. Many were al-Qaeda or Taliban members - but some, it has since been shown, were not. Yet, all were being held indefinitely as suspected terrorists.

The landmark ruling upheld fundamental tenets of American justice - due process and fairness. The strength of those ideals is demonstrated when they are honored, even with those held at Guantanamo. The court sided with legal practices that distinguish a great democracy and make it a beacon to the world.

Justice Sandra Day O'Connor wrote that "a state of war is not a blank check for the President."

Since then, that principle has taken on a dire urgency - given distressing revelations about interrogation tactics in Cuba that amount to torture.

Some Guantanamo detainees surely pose a threat to the United States and deserve to be detained. But this government hasn't taken care to make sure it is holding the right people, or to treat them properly. Its poor performance makes the case for judicial oversight more powerfully than any legal brief could.

Why were the cases in lower courts? The Supreme Court, while opening courthouse doors to the detainees, left it to lower courts to determine their legal remedies.

Could the captives hope to win their release, or merely to secure a court order altering the harshness of their indefinite imprisonment?

In mid-January, U.S. District Judge Richard J. Leon offered his troubling view. He said the Guantanamo prisoners could ask the courts to determine if they were lawfully detained. But Leon ruled that federal judges were powerless to decide the legality of detaining "nonresident aliens, outside of the United States, during a time of armed conflict."

How's that? The Supreme Court stated that prisoners had the right to use the habeas corpus law, which calls on authorities to justify their detention.

The Leon ruling was a victory for misguided Bush administration detention policies. Fortunately, on Monday, U.S. District Court Judge Joyce Hens Green upheld the claim that federal courts could require the government to justify the Cuba detentions. Green also ruled that U.S. military

tribunals hearing detainees' pleas were unfair, and that some captives had been wrongly denied prisoner of war status.

Guantanamo serves as an embarrassment to the U.S. and a potential threat to American soldiers if they are captured. The legal principles that the White House ignores also protect American prisoners of war.

So citizens must look once more to the Supreme Court to find the right balance between fighting terrorism and safeguarding American ideals.