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Lawyers Challenge Guantanamo Charges

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GUANTANAMO BAY NAVAL BASE, Cuba - Lawyers challenged conspiracy and terrorism charges against an Australian who allegedly fought with Afghanistan's Taliban as Americans cast ballots Tuesday in elections that could halt the first U.S. military commissions since World War II.

Amid heated exchanges, lawyers for David Hicks argued charges involving conspiracy and terrorism weren't valid under international law for the panel to hear.

"We're not here to make stuff up after the fact," said Marine Corps Maj. Michael Mori, Hicks' military-appointed lawyer.

The 29-year-old Australian has pleaded innocent to attempted murder, aiding the enemy and conspiracy to attack civilians, commit terrorism and destroy property. Conviction could bring a life sentence.

The former cowboy is accused of joining Afghanistan's Taliban militia and developing ties to al-Qaida terror network. He allegedly took up arms against U.S. and coalition forces, but not civilians.

The defense and prosecution debated whether terrorism applied to Hicks' alleged association with al-Qaida.

"Terrorism is an offense under international law and has been prior to events before September 2001," prosecutor Marine Lt. Col. Kurt Brubaker said.

The defense argued the Sept. 11 attacks did not constitute "armed conflict."

Lawyers also attacked the contention that U.S. laws do not apply to foreigners from more than 40 countries held at its base in Cuba.

"Only the U.S. government asserts that there are lawless places in the world," defense lawyer Josh Dratel said, noting the U.S. Supreme Court ruled in June that prisoners can challenge their detentions in U.S. courts.

The defense argued that al-Qaida is not a state, and war crimes generally require two states in conflict.

"Are you saying there was no armed conflict against the Vietcong?" asked presiding officer Army Col. Peter E. Brownback, who served in Vietnam.

Mori said yes before an irritated Brownback called him "sunshine" and dismissed the argument.

The defense also argued Hicks, held for nearly three years, has a right to a speedy trial. Prosecutors noted a review tribunal had found Hicks an "enemy combatant," and as such has no right to a speedy trial.

The hearings came amid U.S. elections that could change the mission that has detained some 550 terror suspects. Only four prisoners have been charged.

If challenger Sen. John Kerry wins, running mate John Edwards said he could abandon commissions and set up traditional military courts-martial.