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NEW D.C. JUDGE TO HEAR GITMO CASES

Guantánamo Bay prisoners challenging their detention in federal court are set to have their cases heard Oct. 6 by a D.C. Circuit panel that includes two of President George W. Bush's controversial judicial nominees. Judges Janice Rogers Brown and Thomas Griffith -- both confirmed to seats on the U.S. Court of Appeals for the D.C. Circuit in June as part of a compromise to avoid a Senate showdown over the judicial filibuster -- were assigned at random to the case. Judge Judith Rogers, appointed by President Bill Clinton in 1994, is the third member of the panel.

After last week's scheduling order, lawyers for the Guantánamo Bay detainees filed a motion to move up the oral arguments to August. Briefing in the cases was completed June 28. If arguments are not heard until October, the detainees' attorneys fear that the matter will not reach the U.S. Supreme Court -- where it is ultimately expected to be decided -- until its 2006-2007 term.

"I'm not sure why the court put the argument so far down on the road," says Barbara Olshansky, deputy legal director at the Center for Constitutional Rights in New York. "We want this case to be heard, and it's already been way too long."

Olshansky, who coordinates dozens of pro bono lawyers representing detainees, says she is "trying hard to be optimistic" about the two Bush appointees assigned to the case. "So many judges get on the bench, and where they've been politically is not necessarily what they do on the bench."

The appeals stem from disparate rulings handed down by Judge Richard Leon and Senior Judge Joyce Hens Green of the U.S. District Court for the District of Columbia.. Leon, another Bush appointee, dismissed the cases assigned to him, holding that the Guantánamo Bay detainees have no rights under U.S. or international law that can be vindicated in court. Green, a Jimmy Carter appointee, found that the prisoners do have such rights.

In June 2004 the Supreme Court ruled 6-3 that the federal courts have jurisdiction to hear claims brought by detainees at Guantánamo Bay, but it did not indicate how those claims should be resolved.