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## **Lawyers Have Filed a Slew of Habeas Corpus Petitions on Behalf of Guantanamo Prisoners Asking . . . Were they rightfully detained?**

National Journal  
February 4, 2006

Shortly after the September 11, 2001, terrorist attacks, President Bush issued a military order that authorized the Defense Department to detain noncitizens suspected of having ties with Al Qaeda or other terrorists. As a result, hundreds of so-called "enemy combatants" were rounded up and taken to prisons in Guantanamo Bay, Cuba. Since early 2002, lawyers working on a volunteer basis have filed papers with U.S. courts asking the government to explain why it is holding individual prisoners. These habeas corpus petitions have forced disclosures by the Defense Department that shed light on some of the details surrounding the estimated 500 prisoners currently in U.S. captivity.

Habeas court papers and rulings

February 19, 2002:

The Center for Constitutional Rights files *Rasul v. Bush*, the first habeas claim brought by Guantanamo detainees' families. Government asks the court to dismiss the case.

May 1, 2002:

Thomas Wilner of Shearman and Sterling files habeas petitions in *Al Odah v. United States*, on behalf of Kuwaitis at Guantanamo.

July 30, 2002:

Federal judge in D.C. dismisses both *Rasul* and *Al Odah* habeas claims. Both cases appealed under one title, *Rasul*.

July 3, 2003:

Bush designates six detainees for trial in front of the first military commissions since World War II.

April 6, 2004:

Navy Lt. Cmdr. Charles Swift, appointed to defend a Yemeni detainee before a military commission, files *Hamdan v. Bush*, asking a federal judge to stop the proceeding as an "unprecedented, unconstitutional, and dangerously unchecked expansion of executive authority."

June 28, 2004:

U.S. Supreme Court overrules lower courts in *Rasul*, says detainees have the right to challenge their detention. Lawyers immediately volunteer to represent the men at Guantanamo.

July 7, 2004:

Defense Department announces Combatant Status Review Tribunals. Detainees may contest, without lawyers or knowledge of classified evidence, the accusations against them.

Rush to file

Following the Supreme Court's decision, a slew of petitions are filed on behalf of detainees.

October 4, 2004:

Justice Department asks courts to dismiss all habeas petitions, arguing that the Combatant Status Review Tribunals fulfill the Supreme Court's mandate.

November 8, 2004:

Lawyers begin regular visits to Guantanamo. They are the first civilians, other than the International Red Cross, to meet the detainees.

U.S. District Court Judge James Robertson of D.C. rules in *Hamdan v. Bush* that the proposed military commission is illegal. Justice Department appeals.

January 19, 2005:

U.S. District Court Judge Richard Leon of D.C. dismisses eight habeas petitions, saying the tribunals fulfilled any rights the detainees might have. Detainee lawyers appeal.

January 31, 2005:

U.S. District Court Judge Joyce Hens Green, with 60 habeas petitions before her, says Guantanamo detainees have a right to present their cases in federal court. The tribunals fail "to comport with the requirements of due process." Justice Department appeals.

November 7, 2005:

U.S. Supreme Court agrees to hear *Hamdan v. Bush*, challenging the legality of the military commissions planned for some detainees. Sen. Lindsey Graham, R-S.C., says he will introduce legislation to stop the flood of habeas litigation from detainees at Guantanamo Bay.

November 15, 2005:

Graham-Levin amendment passes the Senate, stripping the courts of their jurisdiction to hear habeas claims from Guantanamo. Detainees may instead challenge their enemy combatant status once before the U.S. Court of Appeals for D.C. When the amendment emerges from conference, it will also explicitly allow evidence gained from coercion.

January 4, 2006:

Justice Department informs the courts of the Graham-Levin amendment, followed by formal requests that the courts dismiss all of the habeas cases. Decisions are pending in multiple courts.

Other key events

September 11 attacks

January 11, 2002:

First detainees arrive at Guantanamo Bay.

February 7, 2002:

President Bush announces that none of the detainees are prisoners of war.

February 28, 2002:

194 detainees are on hunger strike.

November 2002:

Intelligence and detention operations merge at Guantanamo.

December 2, 2002:

Rumsfeld approves advanced "counter-resistance" interrogation strategies at Guantanamo; he rescinds order six weeks later.

April 16, 2003:

Rumsfeld approves revised interrogation techniques for Guantanamo, including temperature extremes, sleep adjustment, isolation, and stress positions.

August 18-26, 2003:

Twenty-three detainees try to hang or strangle themselves in what Defense officials call "a coordinated effort to disrupt camp operations."

October 2003:

The International Committee for the Red Cross privately tells Defense officials that interrogators have too much control over prisoners' lives.

November 30, 2004:

New York Times divulges confidential International Committee for the Red Cross report stating that the systems at Guantanamo were devised to break prisoners' will and produce intelligence through "humiliating acts, solitary confinement, temperature extremes, use of forced positions." Defense officials respond that Guantanamo is a "safe, humane, and professional" operation providing valuable intelligence in the war on terror.

June 9, 2005:

Defense Department releases investigations into FBI allegations of abuse at Guantanamo, saying it "found no evidence of torture or inhumane treatment." Most of the interrogation tactics confirmed by the report, such as playing loud music, yelling, strobe lights, temperature extremes, and sleep deprivation, were within department guidelines at the time they were used.

September 12, 2005:

More than 100 detainees are on hunger strike, or "fasting."

December 30, 2005:

84 detainees are on hunger strike.