

The following text may be printed, copy/pasted, or downloaded and emailed.

Judge Halts Guantánamo Trial

NEIL A. LEWIS

New York Times

November 16, 2005

WASHINGTON - A federal judge has halted for at least several months the military's plan to resume the war crimes trial in Guantánamo Bay, Cuba, of David Hicks, an Australian charged with fighting for the Taliban in Afghanistan.

In a ruling issued late Monday evening, Judge Colleen Kollar-Kotelly of Federal District Court issued an order staying the proceedings in response to a request made by Mr. Hicks's lawyers. Judge Kollar-Kotelly cited the Supreme Court's decision last week to review the legality of the military commissions being used to try Guantánamo detainees with war crimes.

The justices ruled in the case of Salim Ahmed Hamdan, who was a driver for Osama bin Laden and has been accused of participating in terrorist activities. After the court agreed to consider the issue, the Pentagon said it would nonetheless go forward with plans to try Mr. Hicks under the same procedure. The military commission that sits at Guantánamo was scheduled to hear motions in the Hicks case beginning this Friday.

Judge Kollar-Kotelly not only overturned those plans but also ordered that Mr. Hicks's trial be postponed until after the Supreme Court rules in the Hamdan case. Such a ruling will not come until next spring at the earliest.

Mr. Hicks and Mr. Hamdan, along with seven other Guantánamo detainees, have been charged with war crimes. The Kollar-Kotelly ruling means, in effect, that none of the proceedings can go forward until the Supreme Court resolves the issue of the legality of the military commissions.

A federal district court judge ruled that the commissions violated domestic law and United States obligations under international treaties. A three-judge appeals court, which included John G. Roberts Jr. before he became chief justice, overturned that ruling. Chief Justice Roberts will not take part in the Supreme Court case, which is to be argued in March.