

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

## **Lawyer Says Rumsfeld 'Messed Up' Guantanamo Trials**

Jane Sutton  
Reuters  
April 10, 2006

GUANTANAMO BAY U.S. NAVAL BASE, Cuba, April 7 (Reuters) - Defense Secretary Donald Rumsfeld and his appointees set rules that violate President George W. Bush's order to hold fair trials for prisoners charged with terrorism in the Guantanamo tribunals, a military defense lawyer said on Friday.

"We can't help it that the secretary of defense and his delegees (sic) have messed this thing up, but they have," military lawyer Army Maj. Tom Fleener told the presiding officer at one of the hearings.

"If the rules don't provide for a full and fair trial, then they violate the president's order." Fleener was trying to persuade the presiding officer, Col. Peter Brownback, to let a Yemeni defendant act as his own attorney on charges of conspiring to attack civilians and destroy property.

Tribunal rules set by the Pentagon require the defendants to have U.S. military lawyers who are authorized to see secret evidence that the accused may not be allowed to view. Pentagon officials have refused defense requests to allow self-representation, which Fleener called a fundamental right in nearly every court on Earth.

Fleener was appointed to defend Ali Hamza al Bahlul, an acknowledged al Qaeda member charged with conspiring to commit terrorism by acting as Osama bin Laden's bodyguard and making al Qaeda recruiting videos.

Bahlul has refused to cooperate with any lawyer appointed by the U.S. military. He asked to act as his own attorney or to have a Yemeni lawyer, and declared a boycott when the request was denied during a March hearing. He did not attend his hearing on Friday at the U.S. naval base in Guantanamo Bay, Cuba.

Fleener said Bahlul cannot get a fair trial unless the rules change. "As the world looks at this system, it's going to have no legitimacy whatsoever," he said.

Bush created them to try foreign terrorist suspects after the Sept. 11 attacks, and directed Rumsfeld and his appointees to draft rules that ensure full and fair trials while protecting national security.

**RULES QUESTIONED**

Defense lawyers have questioned whether another rule violated Bush's order by changing the role of the presiding officer. The president's order said tribunal members would all serve as triers of law and fact, giving each of the four to seven panel members a dual role as judge and juror.

Subsequent Pentagon rules gave only the presiding officer the authority to decide legal issues, making him essentially the judge. The presiding officers have conducted three rounds of pretrial hearings at Guantanamo since January without the other tribunal members present. Defense lawyers questioned whether that constituted a proper hearing.

The Guantanamo tribunals are the first war crimes trials held by the U.S. military since World War Two.

Military defense lawyers and human rights groups have called the tribunals fundamentally unfair and stacked to ensure convictions. The U.S. Supreme Court heard a challenge to their legitimacy last month and is expected to rule by the end of June on whether the trials can proceed.

Ten of the 490 Guantanamo detainees have been charged with conspiring to commit terrorism and four had pretrial hearings this week at the base. The defendants would face life in prison if convicted.