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Top Court Rejects Appeal at Guantanamo

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WASHINGTON - The Supreme Court declined on Monday to consider whether a federal judge can free two Chinese Muslims who remain imprisoned unlawfully at Guantanamo Bay, despite being cleared as "enemy combatants."

The justices refused to review the judge's decision that a federal court cannot provide any relief to Abu Bakker Qassim and A'del Abdu Al-Hakim, two members of the Uighur ethnic group held at Guantanamo while the United States searches for a country to take them.

Their attorneys urged the justices to decide whether a federal court has the power to craft a remedy for those who are indefinitely and unlawfully imprisoned at the U.S. military base in Cuba.

They took the unusual step of appealing directly to the high court after the ruling by U.S. District Judge James Robertson.

The two men, who were captured by Pakistani forces in Pakistan, have been detained since June 2002 at Guantanamo, where the United States holds about 490 terrorism suspects. In March last year, the U.S. military determined the two Uighurs should no longer be considered enemy combatants.

Their lawyers asked the judge to order the two men released while the U.S. government tries to find a country that will grant them asylum.

The U.S. government has said it cannot return the Uighurs to China because they would face persecution there.

Many Muslim Uighurs, who are from Xinjiang in far western China, seek greater autonomy for the region and some want independence. Beijing has waged a relentless campaign against what it calls the violent separatist activities of the Uighurs.

'WHAT JUSTICE REQUIRES'

Robertson ruled in December that the continued, indefinite detention of the Uighurs at Guantanamo is unlawful, but said he had no authority "to do what I believe justice requires" in ordering their release.

Robertson said he could not grant the Uighurs' request for asylum in the United States because the law gives that power solely to the president. The Bush administration has opposed bringing them to the United States.

Their lawyers urged the Supreme Court to intervene now and decide the case, without following the usual procedure of waiting for a ruling by a U.S. appeals court.

"The district court's decision once again renders Guantanamo Bay a place and a prison beyond law," they said. "Liberty can never be secure when the judicial branch declares its impotence."

The American Civil Liberties Union and more than 300 Guantanamo prisoners supported the appeal.

Solicitor General Paul Clement of the U.S. Justice Department opposed the appeal. He urged the justices to put off any review of the case until after the appeals court ruled.

The high court rejected the appeal by the Uighurs without any comment or recorded dissent. The case could return to the high court after the appeals court decides it.