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Guantanamo Bay Prisoners Seek US Court Hearings

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WASHINGTON - Guantanamo Bay prisoners should be given the chance to prove in court that they have been mistakenly labeled as "enemy combatants" and have been unlawfully detained, their attorney said on Thursday.

"Since day one, these people have been saying you've got the wrong guys. They want a fair hearing to show that," attorney Thomas Wilner told a U.S. appeals court during more than two hours of arguments.

But Justice Department lawyer Gregory Katsas repeated the Bush administration's position that the prisoners were not entitled to any constitutional due process rights, and he defended the military tribunals set up to review their cases.

More than 500 prisoners are now being held at the U.S. military base in Cuba after the U.S. government designated them as enemy combatants. Only four have been charged with a crime.

The suspected al Qaeda and Taliban members were captured after the U.S.-led Afghanistan war that followed the September 11, 2001, attacks. Many have been held since the Guantanamo prison camp opened in January 2002.

Under the military's review process, 38 prisoners, accounting for 7 percent of the detainees, were determined to not be enemy combatants despite their earlier designation.

The appeals court considered a pair of Guantanamo cases after two different U.S. District Court judges in Washington came to opposite conclusions in January.

One judge ruled the prisoners have the constitutional right not to be deprived of liberty without due process of law, and that the military tribunals were constitutionally flawed. The other judge said the prisoners have no constitutional rights.

Wilner argued that the prisoners do have fundamental rights under the U.S. Constitution, that they also can use the habeas law to challenge their detention and they have the right to review in court.

Under that law, the government must give a legal and factual basis for the detention, he said.

All three appellate judges sharply questioned the government's lawyer.

Judge David Sentelle questioned the government's position that the prisoners have no rights because the base was outside the United States. "What does Cuba really have left in terms of sovereignty over Guantanamo?" he asked.

Judge A. Raymond Randolph repeatedly asked why the prisoners under the habeas law would not be entitled to some determination in court on whether they have been held under lawful authority.

Sentelle and Randolph both questioned whether the courts could defer to the judgments of the military tribunals.

Judge Judith Rogers questioned whether the military tribunals provided sufficient legal protections.

Lawyers for the prisoners have said the tribunals improperly denied detainees legal representation and provided no opportunity for them to rebut the allegations and evidence against them.

The three-judge panel is expected to rule sometime next year. Any decision most likely will be appealed to the full appeals court or to the U.S. Supreme Court.