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Tribunal exonerates second Guantanamo prisoner

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A military review has determined that a second prisoner held at U.S. Naval Base Guantanamo Bay, Cuba, is wrongly classified as an enemy combatant, and he will be released to his home country soon, a Pentagon official said yesterday.

Navy Secretary Gordon England refused to provide the man's name or nationality, and the circumstances of his original capture were not immediately available. The State Department has been notified of the decision and will make arrangements to return him home.

The prisoner would be the second to be released under a military process instituted to help satisfy the Supreme Court's ruling this past summer that prisoners at Guantanamo could challenge their detentions through the U.S. court system.

To bolster its case for each of the prisoners against any such challenge, the Pentagon set up tribunals that would review the circumstances of their capture and other factors to determine whether they are being properly held.

Asked about Guantanamo at his press conference yesterday, President Bush said, "You've got to understand the dilemma we're in. These are people that got scooped up off a battlefield attempting to kill U.S. troops. And I want to make sure, before they're released, that they don't come back to kill again."

The military has conducted 507 of those tribunals and has about 50 to complete, Mr. England said.

In 292 cases, the prisoner took part in the hearing and the rest refused, Mr. England said. Both of the prisoners released spoke in their own defense.

In the tribunals, formally called Combatant Status Review Tribunals, a three-person panel studies the prisoner's case and forwards its findings to Rear Adm. James M. McGarrah, who issues a final ruling.

He has concurred with the panel 230 times -- to release two prisoners and to continue holding 228 others. The rest of the cases are pending.

Mr. England stopped short of saying the latest prisoner determined to be wrongly classified as an enemy combatant had been held as a mistake.

"I don't think there's a right or wrong answer to this. I think this is a gray area," he said.

An additional 200 Guantanamo prisoners have been released through other arrangements. Some are freed outright, and others are turned over to the custody of their home countries.

Of those, Mr. England said, at least 12 are known to have returned to the battlefield.

"We would like to see trends to better understand this," Mr. England said. "This is a very tough balance. You don't want to release people who could harm Americans or other people. On the other hand, people do have rights."

The military also has begun a second process at Guantanamo that could lead to the release of some prisoners. In that process, a panel will review each prisoner's case to determine whether he is still a threat to the United States or holds intelligence value.

Prisoners undergo this review only after the tribunal determines they are properly held. Instead, this panel will ask annually whether there is still any reason to hold them.