

## Top court allows Guantanamo prisoners' appeals

by James Vicini via reed - Reuters *Thursday, Jun 12 2008, 10:01am*

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*Is it possible the American Constitution, which Bush views as a "piece of paper," retains some meaning? Have the spineless American judiciary finally discovered they have laws to uphold? The most subversive regime in American history remains in office after countless exposures of their crimes. We will reserve our judgement until the flow-on effect occurs. Nevertheless, today's decision re-affirming the right of habeas corpus for ALL detainees is a small step in the right direction. But let's not forget the war criminals in the Whitehouse -- surrender Bush and his fellow felons to the Hague ICC.. Faith restored! Ed.*

WASHINGTON (Reuters) - Guantanamo Bay prisoners have the right to go before U.S. federal judges to challenge their years-long detention, the Supreme Court ruled on Thursday in a stinging setback for the Bush administration.

By a 5-4 vote, the high court overturned a ruling that upheld a law President George W. Bush pushed through the Republican-led Congress in 2006 that took away the habeas corpus rights of the terrorism suspects to seek full judicial review of their detention.

"We hold these petitioners do have the habeas corpus privilege," Justice Anthony Kennedy wrote for the court majority in the 70-page opinion, portions of which he read from the bench.

Habeas corpus is a long-standing legal right that allows prisoners to challenge their confinement by the government. Kennedy said Congress had failed to create an adequate alternative for the prisoners held at the U.S. military base in Cuba to contest their detention.

The 2006 law allowed for a limited review by a U.S. appeals court in Washington of the military's designation of the prisoners as "enemy combatants." It took away their right to a hearing before a U.S. district court judge to challenge their confinement.

Kennedy said the court's ruling did not address whether Bush has the authority to detain the prisoners. He said this and other questions on the legality of their detention must be resolved by the federal judges.

Amnesty International, which has campaigned for the prisoners' rights, welcomed the ruling. "The Supreme Court did the right thing. Everyone has the right to challenge why they're being thrown in prison, to hear the charges against them and to answer to that," Daila Hashad, Amnesty's domestic human rights program director, said.

"It's a real shame that in the 21st Century, we've taken such a step backward in the Bush Administration, to say we have the right to throw someone in jail and throw away the key -- but no longer."

The majority consisted of the court's four liberals -- Justices John Paul Stevens, David Souter, Ruth Bader Ginsburg and Stephen Breyer, plus the moderate conservative Kennedy, who often casts the

decisive vote.

The four conservative dissenters were Chief Justice John Roberts and Justice Samuel Alito, both appointed by Bush, and Justices Antonin Scalia and Clarence Thomas.

#### OTHER PRIOR DEFEATS

The high court has ruled against the administration in two previous Guantanamo cases and in one other terrorism case.

Congress adopted new measures including the 2006 law aimed at keeping such cases out of court by stripping the prisoners of their habeas corpus rights under federal law.

The ruling marked the first time the court has held that the Guantanamo prisoners have those rights under the U.S. Constitution.

Kennedy said the prisoners are not barred from habeas corpus review because they have been designated enemy combatants or because of their presence at Guantanamo.

The Guantanamo prison opened in January 2002 after the administration launched what Bush called a "war on terrorism" in response to the September 11 attacks. The administration has argued the naval base, on land leased from Cuba, is outside U.S. territory so constitutional protections do not apply to the detainees.

"The entire basis for the existence of Guantanamo Bay is gone," said Navy Lt. Cmdr. Brian Mizer, a military lawyer assigned to defend Osama bin Laden's driver Salim Hamdan in the Guantanamo tribunals.

"It's a victory for all Americans because it reinforces the principle that no person or agency is above the law."

There now are about 270 prisoners at Guantanamo. Most have been held for years without being charged and many have complained of abuse.

Bush has acknowledged the prison's damage to the U.S. image and has said he would like to see it closed eventually. Both the Democratic presidential candidate Barack Obama and his Republican rival, Sen. John McCain, have pledged to close it.

The ruling involved two cases.

One consisted of about 30 detainees from a number of countries, including Kuwait, Yemen and Afghanistan. The other was brought by six Algerian immigrants to Bosnia arrested in October 2001 and handed over to the United States three months later.

Justice Scalia read portions of his dissent from the bench. He warned of the "disastrous consequences of what the court has done today."

"Today, for the first time in our nation's history, the court confers a constitutional right to habeas corpus on alien enemies detained abroad by our military forces in the course of an ongoing war," Scalia said.

(Editing by David Alexander and David Storey)

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