

## Supreme Court Says Terror Suspects Have Right to Use Courts

O'Connor: State of war is not blank check

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**WASHINGTON, D.C.** -- The U.S. Supreme Court reined in the Bush administration's secret detentions and interrogations of alleged terrorists Monday, ruling that U.S. citizens and foreigners rounded up after the Sept. 11 attacks deserve their day in court.

As U.S.-led coalition forces turned over sovereignty in Iraq to the country's interim government, the high court's ruling reshaped another front in the war on terror.

Justices emphatically rejected the White House's contention that it has virtually unlimited authority in rooting out America's enemies, even if that means trampling on Americans' cherished civil liberties.

The court ruled in three related cases that have been watched closely since U.S. military forces swept through Afghanistan, detaining hundreds of suspected terrorists shortly after the 2001 attacks on the East Coast. The cases took on added significance recently because of reports of U.S. soldiers' questionable interrogation methods and abuse of Iraqi prisoners at the Abu Ghraib prison near Baghdad.

The court said that even in wartime, the executive branch cannot have unchecked power to detain and interrogate people indefinitely without filing charges against them or letting them talk to their lawyers.

"A state of war is not a blank check for the president," Justice Sandra Day O'Connor wrote in a majority opinion.

The court did side with the administration on a key point, however. In the case of U.S. citizen Yaser Esam Hamdi, the justices ruled that Congress gave President Bush the authority, in very limited circumstances, to designate citizens as "enemy combatants" and order the military to seize and detain them.

But the court also ruled that Hamdi, a suspected Taliban fighter being held in a Navy brig in South Carolina, should be allowed to fight his detention in court.

The same is true, the justices said, for foreign prisoners held for more than 2 1/2 years at a Navy prison camp at Guantanamo Bay, Cuba. The men in that case, two Australians and 12 Kuwaitis, are among about 600 detainees at the camp who were picked up by U.S. forces in Afghanistan and Pakistan after the al-Qaida attacks on the United States.

The court mentions only the detainees held in Cuba; legal experts said it's unclear how the ruling might affect foreign prisoners held by the U.S. military elsewhere in the world.

In the dissent, Justice Antonin Scalia said the majority ruling improperly extends U.S. court jurisdiction "to the four corners of the Earth." Legal precedent dictates otherwise, and only Congress can change that, Scalia wrote. He was joined by Chief Justice William Rehnquist and Justice Clarence Thomas.

The Bush administration had argued that in times of war, the executive branch has broad authority to pursue the nation's enemies in hopes of preventing future attacks. It told the court that the U.S. military should not have to give alleged "enemy combatants" the rights given to prisoners of war under the Geneva Conventions or the constitutional protections of U.S. criminal suspects.

A lower court assigned to Hamdi's case embraced that view, but the high court decided there are limits to the White House's power. Eight of the nine justices -- all but Thomas -- said Hamdi deserved a chance to challenge his detention in court. The justices differed in their reasons.

Hamdi "unquestionably has the right to access to counsel," O'Connor said in an opinion joined by Rehnquist and Justice Stephen Breyer and Anthony Kennedy.

Justices David Souter and Ruth Bader Ginsburg said they would have gone further and found that Hamdi's detention was improper and that he should either be charged with a crime or released. They sided with the other four, however, because they agreed Hamdi should at least get a court date.

In another case involving a U.S. citizen, the court sidestepped the issue of Jose Padilla's detention, also at the South Carolina brig. The justices instead ruled 5-4 that Padilla, who was arrested at Chicago's O'Hare International Airport in 2002, had filed his case in the wrong court and against the wrong person.

Padilla, accused of conspiring with al-Qaida to launch a radiological "dirty bomb" attack in the United States, sued Defense Secretary Donald Rumsfeld instead of a lower-level military officer in charge of his incarceration and filed the case in New York, where his case began, rather than in South Carolina.

The majority said Padilla can refile his lawsuit in the proper court, but Justice John Paul Stevens complained that by skirting the main issue, the court was only postponing a response to its duty. Reading a stinging dissent from the bench, which also was signed by Ginsburg, Souter and Breyer, Stevens said Padilla's was "an exceptional case that merits exceptional treatment."

"At stake in this case is nothing less than the essence of a free society," Stevens wrote. " ... If this nation is to remain true to the ideals symbolized by its flag, it must not wield the tools of tyrants even to resist an assault by the forces of tyranny."

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