Supreme Court Denies Guantanamo Appeal

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WASHINGTON (AP) -- The Supreme Court rejected an appeal Monday from Guantanamo detainees who want to challenge their five-year-long confinement in court, a victory for the Bush administration's legal strategy in its fight against terrorism.

The victory may be only temporary, however. The high court twice previously has extended legal protections to prisoners at the U.S. naval base in Cuba. These individuals were seized as potential terrorists following the Sept. 11, 2001 attacks and only 10 have been charged with a crime.

Despite the earlier rulings, none of the roughly 385 detainees has yet had a hearing in a civilian court challenging his detention because the administration has moved aggressively to limit the legal rights of prisoners it has labeled as enemy combatants.

A federal appeals court in Washington in February upheld a key provision of a law enacted last year that strips federal courts of their ability to hear such challenges.

At issue is whether prisoners held at Guantanamo have a right to habeas corpus review, a basic tenet of the Constitution that protects people from unlawful imprisonment.

The detainees' core argument is that no matter where they are held by American authorities, they are entitled to access to U.S. courts. They want the court to strike down the new law as unconstitutional.

"We're disappointed and for us this is a delay that is unconscionable," said Michael Ratner, president of the Center for Constitutional Rights, which has led the fight to gain court access for the detainees.

Ratner said that in enacting the Detainee Treatment Act, Congress "rips out the heart" of court access "and now the court says 'let's wait.' That's another year of delay."

Former military officers, diplomats and federal judges joined the detainees in urging the court to take prompt action. The court "held in no uncertain terms that the Guantanamo detainees were entitled to habeas corpus review to challenge the lawfulness of their detention," they said in their supporting brief. "But since that decision in June 2004, the court's mandate has been frustrated and not a single detainee has had a habeas hearing in federal court."

But the administration said that because of changes in the law since 2004 there was no
need for the justices to hurry. Congress has authorized military hearings to assess whether the prisoners are being properly detained as enemy combatants. Those decisions can be appealed in a limited fashion to the U.S. Court of Appeals for the D.C. Circuit, the same court that ruled in the administration's favor in February.

"There is no need for this court to assess the adequacy of the...review before it has taken place," Solicitor General Paul Clement, the administration's top Supreme Court lawyer, wrote.

The court is likely to be faced with the same cases it rejected Monday once the appeals court begins conducting reviews.

Clement also argued that the appeals court was correct in holding that aliens outside the United States have no rights under the U.S. Constitution.

Justices Stephen Breyer, Ruth Bader Ginsburg and David Souter voted to accept the appeals. "The questions presented are significant ones warranting our review," Breyer wrote. In addition, Breyer and Souter said they would have heard the case on a fast track, as the detainees requested.

And in a sign that the court has not had its final say on the matter, Justices Anthony Kennedy and John Paul Stevens made clear in a separate opinion that they were rejecting the appeals only on procedural grounds.

It takes four votes among the nine justices to accept a case.

Bipartisan proposals already have been introduced in the Democratic-led Congress to rewrite the 2006 law that swept away the detainees' access to U.S. courts. It was enacted by the then-GOP majority at the request of the White House.

The Supreme Court has twice thwarted the administration's efforts to keep the detainees out of the courts.

The Bush administration has reacted to each of the two previous rebuffs by undertaking remedial measures.

In 2004, the justices ruled that the courts can hear the detainees' cases, saying that prisoners under U.S. control have access to civilian courts, no matter where they are being held. Remedial measures. "The courts of the United States have traditionally been open to nonresident aliens," Stevens wrote in Rasul V. Bush.

In 2006, the justices ruled that President Bush's plan for military war crimes trials, envisioned for a small number of Guantanamo Bay detainees, is illegal under U.S. and international law. The justices also said a law that Congress passed in 2005 to limit federal court lawsuits by Guantanamo detainees did not apply to pending cases.

After the Supreme Court ruling in 2004, the Pentagon set up panels that reviewed whether each of the detainees had been correctly categorized as an enemy combatant, and therefore not entitled to any legal rights.

After the justices' ruling in 2006, Congress at the urging of the White House enacted the law which blocked detainees from coming into U.S. courts and established new rules for the military trials.

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