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Obama lawyers: Ex-Guantánamo detainees have no rights

By NEDRA PICKLER

The Obama administration argued in court documents filed Friday that four former detainees at the Guantánamo Bay detention camp who have sued over their treatment have no constitutional rights.

The suit was brought by four British men who say they were beaten, shackled in painful stress positions, threatened by dogs and subjected to extreme medical care during their time in the lockup at the U.S. Navy base in southeast Cuba.

They also say they were harassed while practicing their religion, including forced shaving of their beards, banning or interrupting their prayers, denying them prayer mats and copies of the Koran and throwing a copy of the Koran in a toilet.

They contend in their lawsuit that the treatment violated the Religious Freedom Restoration Act, which provides that the ``government shall not substantially burden a person's exercise of religion."

The U.S. Circuit Court of Appeal for the District of Columbia unanimously ruled against them early last year, saying because the men were foreigners held outside the United States, they are not covered by the definition of "person" protected by the act.

Later in 2008, the U.S. Supreme Court ruled that Guantánamo detainees have some rights under the Constitution. So the Supreme Court instructed the appeals court to reconsider the lawsuit in light of their decision.

Michael Ratner, president of the Center for Constitutional Rights, which is supporting the detainees, said the group is disappointed the new administration ``squandered this opportunity to separate themselves from the policies of the past and to speak with moral force about torture and religious freedom."

The Justice Department argued in its filing that the detainees had no constitutional rights and that, even if they did, military officers should not be held liable in this case because detainees' rights were not clearly established at the time of their detention. The government also argued that holding military officials liable could cause them to make future decisions based on fear of litigation rather than appropriate military policy.

"There is one word that the Department of Justice never uses: torture," said Eric Lewis, lawyer for the detainees. ``But the upshot of the Justice Department's position is that there is no right of detainees not to be tortured and that officials who order torture should be protected."

Justice spokesman Matt Miller pointed out in response to the criticism that President Barack Obama has ordered a review of the status of Guantánamo detainees.

"The Guantánamo detention facility will be closed by Jan. 22, 2010, but in the meantime, we will continue to litigate cases involving detainees," Miller said.

The four who sued are Shafiq Rasul, Asif Iqbal, Rhuhel Ahmed and Jamal al Harith, all British citizens and residents. They were sent back to Britain in 2004. The defendants in the case include former Defense Secretary Donald Rumsfeld and retired Gen. Richard Myers, former chairman of the Joint Chiefs of Staff.