

U.S. releases 3 detainees to Bosnia

The move may mean the Bush White House has come to accept its Guantanamo tactics are finally doomed.

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In the Bush administration's first bow to a court directive to release prisoners held at Guantanamo Bay, Cuba, the Department of Defense flew three Algerians to their adopted homeland of Bosnia-Herzegovina on Tuesday.

The Pentagon acknowledged in a tersely worded announcement that the release was in reaction to a federal judge's order last month to free five Algerians seized in Bosnia in 2001. The men were suspected of participating in a plot to bomb the U.S. Embassy in Sarajevo, but were ordered freed when authorities there dropped the allegations.

The Pentagon did not explain why only three of the five were transferred.

The government's decision to abide by the judge's order could signal that the administration has acknowledged in its final days that its controversial detention and interrogation practices are doomed. President-elect Barack Obama has promised to close Guantanamo.

The Detainee Treatment Act of 2005 and the Military Commissions Act of 2006 stripped Guantanamo detainees of the right to challenge their detention in federal courts.

The Supreme Court in June restored detainees' rights of habeas corpus in the case of Lakhdar Boumediene vs. Bush, a ruling that flooded federal courts with fresh petitions from most of Guantanamo's 250 detainees. Most of the habeas challenges are still pending judgment, holding out the prospect of further court-ordered releases.

U.S. District Judge Richard Leon, an appointee of President Bush, was assigned what is known as "the Bosnians" case. In a weeklong hearing, government lawyers made no mention of the alleged embassy plot. Instead, they argued that the men were planning to go to Afghanistan to fight U.S. forces.

Leon ruled Nov. 20 that the government lacked sufficient grounds to hold five of the six seized in 2001 and ordered their release. The sixth, Bensayah Belkacem, was linked to Al Qaeda and could be held indefinitely as an enemy combatant, Leon ruled.

The three who arrived in Sarajevo and were whisked off to protective custody, according to news agencies, were Mustafa Ait Idir, Hadj Boudella and Mohamed Nechla, all naturalized Bosnian citizens. The two others ordered released, Saber

Lahmar and Boumediene, remain at Guantanamo, according to their lawyers.

The Justice Department had been expected to fight the release order at the U.S. Court of Appeals in Washington, which has generally supported the president's claims to enhanced powers in national security matters during its proclaimed war on terrorism.

"For the first time in nearly seven years, three Supreme Court decisions, two acts of Congress stripping habeas jurisdiction, five deaths of men detained at the base, innumerable hunger strikes, illegal interrogations and untold abuse, men detained in Guantanamo landed safely in their home country as a result of an order for their release issued by a federal judge in a habeas case," said Vincent Warren, executive director of the Center for Constitutional Rights that launched the habeas challenges for most Guantanamo detainees.

In October, another federal judge ordered 17 Chinese Muslims released from Guantanamo because the Pentagon's office that periodically reviews the need to continue detaining terrorism suspects had long ago conceded there was no threat posed by the Uighurs, an oppressed Muslim community that spans western China and former Soviet republics in Central Asia.

Five Uighurs had been sent to Albania in 2006 as the Pentagon attempted to resettle the captives, who could face persecution, torture or death in their homeland.

But Beijing's angry reaction halted further transfers as European countries feared damage to their relations with China if they gave refuge to the minority China considers enemies of the state.

The Washington appeals court stayed the order for release of the Uighurs a day after it was issued.

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