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Court May Hear Chinese Detainees

Muslims Lack Country of Refuge

By Josh White
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A federal judge in Washington said yesterday that he will consider allowing two detainees in the military prison at Guantanamo Bay, Cuba, to appear before him in court to challenge their confinement, telling lawyers that the ethnic Uighurs who have been cleared for release have been held too long.

U.S. District Judge James Robertson said he believes the case of the Uighurs (pronounced *wee-gurs*) presents "a genuine dilemma" because the government has determined they are not enemy combatants but has not found a country to accept them. U.S. officials are not willing to send the Uighurs -- Muslims who are seeking their own homeland on what is now part of northwestern China -- to their native country for fear that they would be tortured or killed.

U.S. authorities have tried to persuade nearly two dozen nations to provide refuge for the Uighurs but have refused to allow them into the United States.

No Guantanamo Bay detainee has been allowed to travel to the United States and appear before a federal judge. The government has fought efforts at judicial review after a 2004 Supreme Court ruling entitling detainees to a "competent tribunal" to determine whether they are enemy combatants. The issue is currently before the appellate court for the District of Columbia Circuit.

Government lawyers are concerned that such a move could allow the Uighurs to immediately apply for asylum when they arrive on U.S. soil.

But Sabin Willett, an attorney for the detainees, said his clients are essentially on U.S. soil already and asked the judge to consider granting them a provisional "parole" that would allow them to live with ethnic Uighurs in the Washington area while their cases are considered.

Robertson, who in August sought more time to consider the cases, said yesterday that he is frustrated by the government's inability to move forward, essentially stranding five Uighurs who have been housed in a part of the detention facility known as Camp Iguana, which is less restrictive than the rest of the prison. The five Uighurs are living with four others at the camp as they await a country to accept them.

The Uighur detainees have been held, without charges, for more than four years since their arrests in the Middle East.

The judge said he had three options: deny the detainees' motion and allow the case to go to an appellate court; order them to appear before him for a hearing on their immediate release; or order the government to release them outright "and see what happens, see how the government responds."

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"As far as I can tell, nothing is happening," Robertson said, adding that he doesn't believe diplomatic progress has been made. "The time has stretched out to the point where indefinite is not an inappropriate word to describe what is happening."

Terry Henry, a Justice Department lawyer, said that government officials have been working on a diplomatic solution but that he could discuss it only in private. Robertson declined to hear the information off the record.

"The government is serious about finding a place for resettlement for the petitioners," Henry said.

The Uighurs, through their lawyers, have argued that because they are not a threat they should be moved to more hospitable living conditions and have asked to be released to live in the Washington area. Willett said his clients have gone from elation in August -- when they were moved to Camp Iguana and given hope of release -- to frustration as their cases have dragged on.

"I am deeply concerned about the human impact of the indefinite nature of this," Willett said.

Rabiya Kadeer, president of the Washington-based International Uyghur Human Rights and Democracy Foundation, attended the brief hearing yesterday and pledged to provide homes and jobs for the Uighurs should they be released to the United States.

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