

GUANTÁNAMO LITIGATION

CHRONOLOGY OF BOUMEDIENE CASE

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CHRONOLOGY OF HAMDAN CASE

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CHRONOLOGY OF DTA AND MCA CASES

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COMBINED CHRONOLOGY ¹

November 29, 2007

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GLOSSARY

ARB	<i>Annual Review Board.</i> A military tribunal, similar in some ways to a prison parole board, that annually considers whether a GTMO prisoner is worthy of release.
CADC	U.S. Court of Appeals for the District of Columbia Circuit.
Cert petition	<i>Certiorari petition.</i> A petition asking the Supreme Court to hear a case. A hearing in the Supreme Court is not automatic; the Court must agree. When the Court grants “cert,” that means it has agreed to hear a case.
CBJ	<i>Certiorari before judgment.</i> A petition asking the Supreme Court to hear a case without waiting for the court of appeals to decide it first.
CSRT	<i>Combatant Status Review Tribunal.</i> A military tribunal that decides whether a GTMO prisoner is properly held as an enemy combatant.
DTA action	An action brought in the CADC under the Detainee Treatment Act of 2005 to review a final decision of a CSRT or military commission.
DDC	U.S. District Court for the District of Columbia.
Rehearing en banc	<i>Rehearing by the full court.</i> U.S. courts of appeals consist of between 5 and 27 judges. Each appeal, however, is normally decided by a panel of three judges. In rare cases, after a panel of three judges has decided an appeal, the full court will see a need to void the panel’s decision and “rehear” the appeal.

GTMO	Guantánamo Bay Naval Station, Cuba.
Habeas corpus	A type of lawsuit dating back to the Magna Carta that seeks to free an individual who claims to be unlawfully imprisoned.
SCOTUS	U.S. Supreme Court.
Panel rehearing	Rehearing by the same panel of three judges that decided the appeal. In rare cases, a panel may agree to reconsider its own decision. A party usually asks for panel and en banc rehearing together.

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GUANTÁNAMO LITIGATION

COMBINED CHRONOLOGY

2001

- 09/11/01 - Al Qaeda attacks U.S. targets.
- 09/18/01 - Congress enacts the Authorization for Use of Military Force (AUMF) resolution. The AUMF authorizes the President to use “all necessary and appropriate” force against those responsible for the 9/11 attacks.
- 10/07/01 - Coalition forces invade Afghanistan.
- 11/13/01 - The President issues Military Order No. 1, establishing military commissions to try Guantánamo prisoners charged with war crimes.

2002

- 01/11/02 - First prisoners arrive at GTMO.
- 02/19/02 - **Rasul** files first habeas corpus action in DDC.
- 04/01/02 - **Hamdan** arrives at GTMO. Exact date uncertain.
- 05/01/02 - **Al Odah** files second habeas corpus action in DDC.
- 07/30/02 - DDC (Kollar-Kotelly) consolidates Rasul and Al Odah and dismisses both cases. *Al Odah and Rasul become known under the single name “Rasul.”*

2003

- 03/11/03 - CADC (Randolph, Garland, Williams) affirms DDC dismissal of Rasul.
- 07/03/03 - President names Hamdan and others to face military commission trials.
- 09/02/03 - Rasul files cert petition.
- 11/10/03 - SCOTUS grants cert in Rasul.

2004

- 04/06/04 - Hamdan files habeas corpus action challenging military commissions.
- 06/28/04 - SCOTUS (6-3) reverses CADC in Rasul (*Rasul v. Bush*). Court decides that GTMO prisoners may bring habeas corpus actions in court. *Rasul returns home; habeas corpus cases becomes known as "Al Odah."*
- 07/07/04 - Dep. Sec. Def. Wolfowitz issues order establishing CSRTs and setting out procedures.
- 07/09/04 - Military charges Hamdan with conspiracy.
- 07/12/04 - **Boumediene** files habeas corpus action in DDC.
- 07/29/04 - Navy Sec. England issues memorandum implementing CSRT procedures.
- 08/02/04 - GTMO holds first CSRT hearing; CSRT hearings are completed by January 2005.
- 11/08/04 - DDC (Robertson) invalidates military commissions in Hamdan as violative of Geneva Conventions.
- 11/22/04 - Hamdan files CBJ petition in SCOTUS.

2005

- 01/18/05 - SCOTUS denies Hamdan CBJ petition.
- 01/21/05 - DDC (Leon) grants gov't motion to dismiss Boumediene cases on ground that GTMO prisoners have no legal rights.
- 01/31/05 - DDC (Green) denies gov't motion to dismiss Al Odah cases on ground that GTMO prisoners have Due Process and Geneva Conventions rights.
- 07/15/05 - CADC (Randolph, Roberts, Williams) reverses DDC in Hamdan (Williams dissenting in part).
- 11/07/05 - SCOTUS grants cert in Hamdan.

- 11/10/05 - Sen. Graham introduces amendment to DoD authorizations bill to (1) bar SCOTUS from deciding Hamdan, (2) bar courts in general from hearing habeas corpus actions by GTMO prisoners, and (3) substitute limited CADC review of CSRT and military commission decisions.
- 12/30/05 - President signs Detainee Treatment Act of 2005 (DTA), including a version of Sen. Graham's habeas corpus jurisdiction-stripping and CADC jurisdiction-review provisions.

2006

- 01/24/06 - Paracha files first DTA action in CADC.
- 06/09/06 - **Bismullah** files DTA action in CADC.
- 06/29/06 - SCOTUS (5-3) (Roberts recused) reverses CADC in Hamdan (*Hamdan v. Rumsfeld*). Court (1) holds that DTA does not apply to cases already filed, and (2) invalidates President's military commissions as unauthorized by Congress and violative of Geneva Conventions.
- 09/06/06 - Responding to SCOTUS decision in Hamdan, President announces in nationally televised address that (1) he has brought 14 "high-value" prisoners to GTMO from secret CIA prisons, and (2) he has sent legislation to Congress to authorize new military commissions to try these prisoners for war crimes. President urges speedy passage of the legislation so the military can begin to try the prisoners without further delay. As of 11/28/07, none of the 14 prisoners has been charged with an offense and no military commission trial has been held.
- 09/22/06 - Sens. McConnell, Frist, and Warner introduce Military Commissions Act of 2006 (MCA) to reverse SCOTUS decision in Hamdan by (1) making DTA's jurisdiction-

stripping provisions apply to cases already filed, (2) authorizing military commissions, and (3) barring Geneva Conventions claims.

- 09/25/06 - Rep. Hunter introduces MCA in the House; MCA is passed by Congress soon afterward.
- 10/17/06 - President signs MCA.
- 11/17/06 - Hamdan challenges MCA and renews attack on military commissions.
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2007

- 02/20/07 - Based on MCA, CADC (Randolph, Sentelle, Rogers) vacates DDC's decisions in Boumediene and Al Odah and orders DDC to dismiss both cases. *Al Odah and Boumediene cases become known by the single name, "Boumediene."*
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- 04/02/07 - SCOTUS (6-3) denies cert in Boumediene.
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11/29/07

**CHRONOLOGY OF
MILITARY COMMISSIONS ACT (MCA) CASES**

2006

- 10/17/06 - President signs MCA, which provides statutory authorization for military commissions to try “unlawful enemy combatants” charged with war crimes.
- 11/17/06 - Hamdan challenges MCA as unconstitutional.
- 12/13/06 - DDC (Robertson) rejects Hamdan’s challenge to MCA and dismisses case.

2007

- 02/02/07- Pursuant to MCA, DOD charges Salim Hamdan, David Hicks, and Omar Khadr.
- March - Hicks enters into pretrial plea deal, pleading guilty to lesser charge in exchange for return to Australia and a light sentence.
- 06/04/07 - Military commission judges dismiss charges against Khadr and Hamdan. Judges conclude that they lack jurisdiction because (1) MCA allows them to try only “unlawful” enemy combatants, (2) the MCA does not give them jurisdiction to decide whether a defendant is an “unlawful” enemy combatant, and (3) the tribunals that the government had set up to determine their status had found them to be enemy combatants but not “unlawful” enemy combatants.
- 06/29/07 - Military commission judges deny reconsideration.
- 07/03/07 - Government appeals Khadr dismissal to Court of Military Commission Review (CMCR), also established by the MCA.

- 07/26/07 - CADC stays Hamdan's appeal from DDC ruling pending SCOTUS decision in Boumediene.
- 09/24/07 - CMCR reverses military commission on the ground that the commission itself can decide whether a defendant is an "unlawful enemy combatant."
- 10/02/07 - CMCR denies Khadr's motion for reconsideration.
- 10/09/07 - Khadr appeals to CADC, also seeking stay of proceedings from military commission while CADC considers appeal; commission denies stay.
- 10/09/07 - Pursuant to MCA, DOD charges Mohammed Jawad.
- 10/17/07 - Military commission restarts Hamdan case based on CMCR ruling in Khadr.
- 11/06/07 - CADC denies Khadr's appeal.
- 11/08/07 - Military commission restarts Khadr case based on CMCR ruling.
- 12/05/07 - Military commission to receive evidence on whether Hamdan is an "unlawful" enemy combatant.
- 12/05/07 - SCOTUS to hear argument in Boumediene case.

11/29/07