



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

HAMDI V. RUMSFELD (2004)

MONDAY, NOVEMBER 28, 2005

OVERVIEW

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Jose Padilla, who has been held as an enemy combatant by the United States for the last three years, was indicted last week on conspiracy charges. Last year, the Supreme Court ruled on a case involving enemy combatants, *Hamdi v. Rumsfeld* (2004). In this month's eLesson, students will explore this landmark case on the rights of the accused.

RESOURCES

- <http://www.oyez.org/oyez/resource/case/1723/>
- <http://www.law.duke.edu/publiclaw/supremecourtonline/commentary/hamvrum.html>
- <http://www.billofrightsinstute.org/Instructional/Resources/FoundingDocuments/Docs/Constitution.htm>

ACTIVITY

The Afghan security team captured Yaser Hamdi and turned him over to the American military in Afghanistan, 2001. Hamdi claimed to be a relief worker who had been mistakenly captured in a round-up. The military, however, said he had been captured because he was fighting for the Taliban against the United States. Once Hamdi was taken to the United States, officials discovered that Hamdi was an American citizen.

Hamdi was kept in prison without access to a lawyer or the courts. His father filed a *habeas* petition in court (a petition asking a court to decide if someone's imprisonment is legal), asking that his son be allowed to meet with a public defender. He claimed the government was denying Hamdi his Fifth Amendment right to due process.

The government said Hamdi's petition should be dismissed. Hamdi had been caught fighting against the United States, and therefore he was an "enemy combatant." This meant he did not have the right to speak to a lawyer or to ask a court to review his case. Further, the executive branch claimed it had the power to do this on its own, without oversight by any other branch of government. After several appeals, the case made it to the Supreme Court.

The Court had to consider two questions. First: Can the executive branch unilaterally declare people to be enemy combatants and hold them indefinitely? And, second: did Hamdi have the right to have his case heard by a neutral decision maker?

The Courts decision was a plurality—justices disagreed on important issues and there was no majority. But all but one of the justices agreed that the executive branch alone does not have the power to designate people as "enemy combatants" and then use that designation as a reason to hold them indefinitely without due process. However, a plurality of justice agreed that Congress had authorized Hamdi's detention when it approved the use of force in Afghanistan. Therefore, the government had the power to detain him as long as the war continued.

But the Court also held that citizens—including enemy combatants—do have rights of due process. The Court held that the Constitution's separation of powers require that courts review presidential decisions; Hamdi had the right to bring his case before a "neutral decision maker." Justice O'Connor wrote: "a state of war is not a blank check for the President when it comes to the rights of the Nation's citizens."

Hamdi agreed to renounce his American citizenship and worked out a plea agreement in which he was returned to Saudi Arabia.



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QUESTIONS

1. Why was Yaser Hamdi taken into custody?
2. Why did Hamdi claim his detention was unconstitutional?
3. How did the government justify his arrest?
4. How did the Supreme Court rule?

Use the following excerpts from the Constitution to answer questions 5 and 6:

“The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.” (Article I)

“The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States....” (Article II)

5. Justice Antonin Scalia believed the Constitution offered only two options to the government for detaining Hamdi: for Congress to exercise its power to suspend *habeas corpus*, or to try him in the criminal court system. Do you agree? Why or why not?
 6. Justice Thomas, in his dissent, asserted the President’s powers as commander-in-chief of the armed forces give him the authority to detain Hamdi. Do you agree? Why or why not?
7. Have students read and discuss the following articles about Jose Padilla:
- <http://abcnews.go.com/Politics/wireStory?id=1339587>
 - <http://www.washingtonpost.com/wp-dyn/content/custom/2005/11/23/CU2005112300029.html>



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ANSWERS

1. The military says Hamdi was taken into custody because he was fighting for the Taliban against the United States. Hamdi claims he was a relief worker captured mistakenly.
2. Hamdi claimed that the government denied him his constitutional right to due process by not letting him talk to a lawyer or ask a court to review his case.
3. The government claimed that Hamdi had been caught fighting against the United States, and therefore he was an “enemy combatant.” This meant he did not have the right to speak to a lawyer or to ask a court to review his case. Further, the executive branch claimed it had the power to do this on its own, without oversight by any other branch of government.
4. A plurality of justice agreed that Congress had authorized Hamdi’s detention when it approved the use of force in Afghanistan. Therefore, the government had the power to detain him as long as the war continued. But the Court also held that citizens—including enemy combatants—do have rights of due process.
5. Answers will vary.
6. Answers will vary.