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Top Court Hears Case on Americans Held in Iraq

By James Vicini
Reuters

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Washington - U.S. Supreme Court justices questioned on Tuesday whether federal judges in the United States military officials in Iraq from turning over Americans to Iraqi authorities for trial or punishment.

Several justices appeared concerned about extending the reach of U.S. courts to Iraq in a case that would test the legal rights of American civilians who have been captured during the Iraq war.

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Bush administration lawyer Gregory Garre argued U.S. courts lack the authority to intervene in the case of Americans being held by U.S. soldiers at Camp Cropper near Baghdad International Airport.

Mohammad Munaf, an Iraqi-American with dual citizenship, was convicted in Iraq and sentenced to 15 years for the 2005 kidnapping of three Romanian journalists. His conviction was later overturned by an Iraqi court after further investigation.

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The other case involved Shawqi Omar, an American-Jordanian citizen who is accused of being a senior insurgent leader Abu Musab al-Zarqawi.

Lawyers for the two men say they might be tortured or even killed if they are transferred to Iraqi custody.

The United States has about 158,000 troops in Iraq after it led an invasion five years ago. The number of U.S. troops killed in Iraq passed 4,000 earlier this week.

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Garre argued the two men are being held under the auspices of multinational forces in Iraq, of which the U.S. is a part.

But Joseph Margulies, the lawyer for Omar and Munaf, disagreed.

"Buck Stops With US Government"

He said the two men clearly were under the control of the U.S. military and should have access to U.S. consular detention. "The buck stops with the United States government when it comes to these detentions," he said.

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Margulies faced a number of skeptical questions from the court's conservative justices.

"To say that the whole world has rights under the U.S. Constitution is extravagant," Justice Antonin Scalia said.

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Chief Justice John Roberts asked Margulies for a "bright line" that determines if U.S. courts have jurisdiction over someone in the middle of a zone of hostilities in a foreign nation would establish.

Justice Samuel Alito expressed concern that thousands of non-U.S. citizens being held in Iraq might be turned over to Iraqi courts so they could not be turned over except under the terms of the extradition treaty between the United States and Iraq.

A ruling is expected by the end of June.

The justices also heard arguments on whether Ahmed Ressaam, the would-be millennium bomber captured at Los Angeles International Airport, was properly convicted on one of the nine charges on which he was found guilty.

A U.S. appeals court reversed his conviction on the one count of carrying explosives while committing a crime.

U.S. Attorney General Michael Mukasey argued the conviction should be reinstated but faced skepticism and he used up only about half of 30 minutes of time.

Traditionally, the attorney general argues at least one Supreme Court case, but President George W general, John Ashcroft and Alberto Gonzales, did not argue before the court.

Editing by Cynthia Osterman.

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