

June 29, 2006: Sanchez Detainee Bill Answers Call from SCOTUS for Congressional Action

SUPREME COURT DETAINEE DECISION NECESSITATES PASSAGE OF SANCHEZ MILITARY COMMISSIONS BILL

Hamdan v. Rumsfeld ruling highlights need for congressional action

WASHINGTON— Today's Supreme Court ruling that proposed military trials of Guantanamo Bay detainees were illegal under U.S. law and Geneva conventions underscored the need for a bill authored by Rep. Loretta Sanchez (D-CA) to establish clear statutory authority for the appointment, jurisdiction, procedures, and review of military commissions. Today's Supreme Court ruling that proposed military trials of Guantanamo Bay detainees were illegal under U.S. law and Geneva conventions underscored the need for a bill authored by Rep. Loretta Sanchez (D-CA) to establish clear statutory authority for the appointment, jurisdiction, procedures, and review of military commissions.

The Military Commissions Act, originally introduced by Sanchez in October 2004, would:

- Assert Congress's constitutional prerogative in the area of military commissions (for the prosecution of war crimes);
- Establish minimum fundamental due process for military commissions;
- Provide for meaningful appellate review; and
- Clearly specify that evidence obtained through the use of torture will not be admitted.

"This is a clear call for decisive congressional action to provide a legal framework for the prosecution of enemy combatants," said Sanchez. "It is the responsibility of Congress to ensure that detainees are tried in a manner fully consistent with the traditions of due process and fundamental fairness that are the proud hallmarks of American justice. The world is watching and it is time for Congress to use a strong hand in shaping the course of war crimes prosecutions."

A 5-3 majority of the Supreme Court ruled that the military commission convened to try Salim Hamdan is not properly authorized by U.S. law and uses procedures that violate the Uniform Code of Military Justice (UCMJ) and Common Article 3 of the Geneva Conventions. The Military Commissions Act (H.R. 3044) provides a ready-made answer to this decision. Specifically the Supreme Court majority held:

The military commission at issue is not expressly authorized by any congressional Act.

H.R. 3044 would expressly authorize the President to try foreign terrorists by military commissions for violations of the law of war and U.S. statutes.

The military commission at issue employs procedures that deviate from court-martial procedures, without any stated justification, in violation of Article 36, UCMJ.

HR 3044 would expressly authorize special procedures and rules of evidence for trial by military commission that take into account the unique nature of these cases. By codifying these procedural standards, Congress would both authorize their use and limit the President's unilateral power to make (and change) rules for military commissions.

The military commission at issue violates Common Article 3 of the Geneva Conventions because it is not a "regularly constituted court."

HR 3044 would establish military commissions as a regular and distinct kind of military tribunal under the UCMJ and thereby satisfy this requirement of Common Article 3.

###