
Three Guantanamo Detainees Released

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The Bush administration has released three of the five Guantánamo Bay detainees who were granted their release by a court order last month. The three men, originally from Algeria, are being returned to Bosnia, where they obtained citizenship before they were jailed in 2001. At the time, the American government said it had evidence that the men, along with three other Bosnians, were planning an attack on the US Embassy in Sarajevo.

The three detainees—Mohamed Nechla, Mustafa Ait Idir and Hadj Boudella—will be the first to be released from the island prison by the Bush administration because of a court order.

The court's decision arose in the context of the first habeas corpus hearing involving Guantánamo detainees. The detainees were able to request the hearing because of a Supreme Court ruling last June that found the detainees have a constitutional right to contest their detentions in federal court. The same detainees were involved in both the Supreme Court case and the federal ruling.

In November, after the government offered secret evidence against the six Bosnians, a federal district judge in Washington, Richard J. Leon, ruled that the case presented by the government had not offered enough evidence to prove that five of the men were enemy combatants.

In granting the writ of habeas corpus and ordering the release of the five men, Judge Leon took the extraordinary step of urging the Government not to appeal. Judge Leon urged the heads of the Justice Department, the Department of Defense, and the Central Intelligence Agency to "take a hard look at the evidence both presented and lacking," and stated that seven years of imprisonment was "more than plenty." This week, the administration informed WilmerHale that it will not appeal.

The decision came after years of pro bono efforts by scores of WilmerHale attorneys and staff on behalf of the six men detained in Guantánamo Bay. The release of three of the men is the most recent step stemming from *Boumediene v. Bush*, the Supreme Court case in which WilmerHale partner [Seth Waxman](#) argued for, and won, the right of individuals detained at Guantanamo to seek habeas corpus.

The detainee for whom the Supreme Court ruling was named, Lakhdar Boumediene, was not among the three Bosnian citizens set for release, reportedly because he had been stripped of his Bosnian citizenship *in absentia* in 2006, while he was at Guantanamo, due to questions about how

he obtained it.

The firm's efforts will continue as WilmerHale works to ensure that all six of its clients are freed.

The victory represents a major advance in the largest pro bono effort in the history of a firm that has distinguished itself as a leader in pro bono representation. Two WilmerHale partners, Stephen Oleskey and [Robert Kirsch](#), have led this effort, marshaling a team of attorneys from the firm's US and European offices. Nearly 30 attorneys have contributed their time to work on behalf of the imprisoned men. Since WilmerHale lawyers became involved in the case, they have visited the Guantánamo Bay detainees nearly a dozen times; gone on investigatory visits to Bosnia; conducted meetings with government officials of various countries, both in Washington and Europe; and developed numerous court filings in US courts in Washington DC and Boston and in the European Court of Human Rights in Strasbourg, France.

Critical documents in the case, including the prisoners' legal briefs and the Petitioners' Public Traverse, which provides the factual background for the men's imprisonment, are available at <http://www.wilmerhale.com/boumediene>.