Synopsis of Facts: The Guantanamo Bay Detention Cases

To accompany *Cases from the War on Terrorism*

In early 2002, the U.S. military began transporting foreigners captured in Pakistan and Afghanistan to the United States military base in Guantanamo Bay, Cuba. The Bush Administration labeled those captured as “enemy combatants” rather than prisoners of war (POWs). Unlike POWs, enemy combatants do not enjoy the protections of the Geneva Convention (which include humane treatment, protection from coercive interrogation and the right to due process of law). According to the Administration, the prisoners in Guantanamo may never be granted a trial, either military or civil, and may be detained until the end of the war on terrorism.

The families of sixteen prisoners—two Australians, two British, and 12 Kuwaitis—filed suit in federal court seeking a writ of habeas corpus that would force the government to present evidence justifying their continued holding at Guantanamo Bay. The detainees all claim their innocence and charge that the government’s decision to deny them access to attorneys and to hold them indefinitely without charges, access to a court, or recourse to any legal process violates the Fifth Amendment’s Due Process Clause.

The government argued that the federal courts had no jurisdiction to hear the case because the prisoners were not American citizens and were not being held in United States territory. Guantanamo Bay base was leased by the US from Cuba indefinitely in 1903, but Cuba retains “ultimate sovereignty.” The lease, however, gives the US “complete jurisdiction and control.”