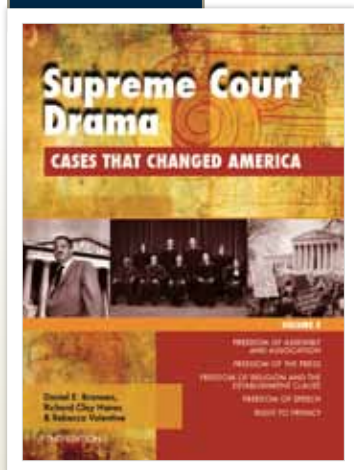


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Hamdi v. Rumsfeld (2004)



Deputy solicitor Paul Clement argues on behalf of the U.S. government in front of the Supreme Court in *Hamdi v. Rumsfeld*. AP IMAGES/DANA VERKOUTEREN.

absolutely had the right to *habeas corpus*, in accordance with the Due Process clauses of the Fifth and Fourteenth Amendments, even though he was being detained as a hostile combatant. She stated that even though Congress had authorized the detention of unlawful combatants in its declaration of armed conflict against Afghanistan, Hamdi still had a right to judicial due process by merit of his American citizenship. She also made it clear that Hamdi had the right to legal counsel (right to the aid of an attorney). However, due to the circumstances under which he was captured, Justice O'Connor ruled that Hamdi did not necessarily have the right to appear before a judge; rather, his case could be presented before a congressionally approved military tribunal. A final stipulation on Hamdi's right to trial was that, as an enemy combatant, the usual burden of proof was not to be placed upon the government.

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