

NY Gitmo trial spurs fresh debate over detainees

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Attorneys Peter Quijano, right, and Steve Zissou address the media after their...
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NEW YORK (AP) — The near-acquittal of the first Guantanamo detainee tried in federal court is reigniting the debate over whether to bring terrorism suspects to justice in the civilian legal system. The Obama administration made it clear Thursday that its position has not changed.

Justice Department spokesman Matthew Miller said in Washington that the administration will continue to rely on a combination of civilian courts and military tribunals to handle terrorism cases.

His comments came a day after Ahmed Ghailani was acquitted in federal court in New York on all but one of more than 280 charges that he took part in the al-Qaida bombings of two U.S. embassies in Africa. The twin attacks in 1998 killed 224 people, including a dozen Americans.

Miller described the conspiracy conviction as "another in a long line of verdicts where federal civilian courts have shown the ability to deliver fair trials and long sentences." And White House spokesman Robert Gibbs pointed out that Ghailani still faces a heavy penalty that will ensure he "isn't going to threaten American lives" — a minimum of 20 years in prison and a maximum of life.

Still, the outcome turned up the volume on the chorus of Republicans and other opponents of civilian trials for terrorism suspects picked up on the battlefield and sent to Guantanamo after the Sept. 11, 2001, attacks. Among those awaiting trial is the professed mastermind, Khalid Sheikh Mohammed.

Some legal experts warned that Wednesday's verdict damaged the argument for trying detainees in civilian courts. They said the case could make the Obama administration more selective in deciding which suspects to put on trial, because of the risk that someone branded dangerous by the government could be acquitted.

"They really needed this case to go off without a hitch, to be a showcase. Instead, you have the opposite," said Aitan Goelman, a former federal prosecutor in New York now in private practice in Washington. "Civilian juries do screwy things," he said. "There's horse trading in jury verdicts."

Michigan Rep. Pete Hoekstra, the top Republican on the House Intelligence Committee, said the verdict confirms that the Obama administration's decision to try Guantanamo detainees in civilian courts "was a mistake and will not work."

"This case was supposed to be the easy one, and the Obama administration failed — the Gitmo cases from here on out will only get more difficult," he said in a statement.

Civil rights groups and Democrats countered that the prosecution proves the civilian legal system works, even for Guantanamo detainees.

Laura Pitter, a counterterrorism adviser for Human Rights Watch who monitored the Ghailani trial, said the verdict "will have finality and be viewed as credible and legitimate by observers and the rest of the world."

David Kelley, who served as U.S. attorney under President George W. Bush after successfully prosecuting 1993 World Trade Center bombing mastermind Ramzi Yousef, called some of the initial reaction to the verdict misguided.

"This was a win by the government," said Kelley, who now is in private practice. He said he supports civilian trials for Guantanamo detainees and believes the Ghailani case proved such trials could take place without disrupting the community.

A year ago, Attorney General Eric Holder announced a plan to try Mohammed and four others in New York, only to put the idea on hold after some in Congress and New York said the security requirements and other problems were unsurmountable. Those five remain at the U.S. military prison at Guantanamo Bay in Cuba while the administration ponders its next move.

Barry Mawn, who led New York's FBI office on the day of the attacks, said bringing someone like Mohammed to trial in Manhattan would require much tighter security than the Ghailani case.

"When I heard it, I thought it was nuts to bring him there," he said of Mohammed. "KSM is a much bigger fish than this guy. This guy's not a know-nothing, that's for sure. But KSM, in the face of their hierarchy, he's huge."

Both President Barack Obama and Holder steered clear of discussing detainee trials as they made brief appearances Thursday devoted to other topics.

Sen. Lindsey Graham, a South Carolina Republican who is seen as key to any deal over Obama's plan to close Guantanamo, said Thursday that top-level al-Qaida suspects should not be tried in civilian courts, but trying lower-level operatives in the civilian legal system "makes sense to me."

The Republican senator said "I'm going to have my hands full holding back" some fellow Republicans who want to rule out the use of civilian courts altogether to try terrorist suspects.

Ghailani's prosecution demonstrated some of the legal hurdles the government would face at civilian trials. Last month, the judge barred the government from calling a key witness, saying prosecutors learned of his identity through harsh CIA interrogation of Ghailani at a secret overseas prison.

"To the extent that some people might attribute this result to the inability to bring that witness, point the finger at those responsible — those who engage in torture and thereby delegitimize evidence," said defense attorney Joshua Dratel.

Dratel represented one of four other men charged in the same attacks in Tanzania and Kenya. All were convicted in the same courthouse a decade ago and sentenced to life terms.

Associated Press writer Pete Yost in Washington contributed to this report.