



In a recent speech, Attorney General Mukasey urged Congress to pass legislation in response to the Supreme Court's decision in *Boumediene v. Bush*. The attorney general used the Bush administration's familiar rhetoric to conjure up a sense of urgency in an attempt to scare Congress into endorsing executive power-grabs. Yet, after watching the Bush administration's ill-conceived detention policies be rebuked by the Supreme Court for the third time in a handful of years, Congress should not rush to enact another failed policy.

As evidenced by Attorney General Mukasey's own suggestions, it is clear that the federal courts are disposing of these cases in an organized, methodical, and practical way.

- Mr. Mukasey suggested that all *habeas* petitions by Guantanamo detainees should be heard in one district court. But already, these petitions are all pending in the D.C. District Court, and any petitions filed elsewhere will be transferred to the D.C. District Court.
- Mr. Mukasey suggested that one judge should rule on the preliminary issues in the cases, in order to avoid contradictory decisions. But Judge Thomas F. Hogan, a senior judge in the D.C. District Court who was appointed by President Reagan, has already taken on that role, deciding many preliminary issues in the *habeas* cases.
- Mr. Mukasey suggested that *habeas* proceedings should not delay military commission trials for the few detainees who have been charged under that framework. But just last week, a federal judge rejected a detainee's petition to delay his military commission trial, which began today.
- Mr. Mukasey suggested that new procedures should be invented to protect sensitive evidence in *habeas* hearings. But federal judges deal with classified information on a regular basis. The *Classified Information Procedures Act* governs how federal courts deal with sensitive information, and it will apply to protect such information in these hearings, just as it has governed trials in federal terrorism prosecutions.
- Mr. Mukasey suggested that allowing the federal courts to continue processing *habeas* petitions would create a risk of inconsistent rulings and a long period of retracted litigation. But D.C. District Court has already coordinated and consolidated the cases in order to process them both expediently and consistently, and any Congressional action would only prolong the legal proceedings.
- Mr. Mukasey suggested that Congress should pass legislation acknowledging the war on terror and expanding the president's detention authority. But the Bush administration has already abused executive power in this area, and any further Congressional ratification of their unprecedented actions will only serve to dig the country in deeper into their failed and dangerous policies.

Again and again, the Bush administration has asserted unprecedented executive power to detain people pursuant to the "War on Terror." Now for the third time, the Supreme Court has stood up to the president and his unconstitutional overreaches. Each time, the Bush administration has convinced Congress to undercut the Supreme Court's decision. This time, Congress should reject call for a frenzied legislative response, and let the federal courts do their job.