

03-6696 HAMDY v. RUMSFELD

Ruling below: CA 4, 316 F.3d 450

QUESTIONS PRESENTED

1. Does the Constitution permit Executive officials to detain an American citizen indefinitely in military custody in the United States, hold him essentially incommunicado and deny him access to counsel, with no opportunity to question the factual basis for his detention before any impartial tribunal, on the sole ground that he was seized abroad in a theater of the War on Terrorism and declared by the Executive to be an "enemy combatant"?

2. Is the indefinite detention of an American citizen seized abroad but held in the United States solely on the assertion of Executive officials that he is an "enemy combatant" permissible under applicable congressional statutes and treaty provisions?

3. In a habeas corpus proceeding challenging the indefinite detention of an American citizen seized abroad, detained in the United States, and declared by Executive officials to be an "enemy combatant," does the separation of powers doctrine preclude a federal court from following ordinary statutory procedures and conducting an inquiry into the factual basis for the Executive branch's asserted justification of the detention?

CERT. GRANTED: 1/9/04