

**NEW YORK
CITY BAR**

BARRY M. KAMINS
PRESIDENT
Phone: (212) 382-6700
Fax: (212) 768-8116
bkamins@nycbar.org

May 16, 2007

Hon. Patrick J. Leahy, Chairman
Senate Committee on the Judiciary
433 Russell Senate Office Building
Washington, D.C. 20510-4502

Hon. Arlen Specter, Ranking Member
Senate Committee on the Judiciary
711 Hart Senate Office Building
Washington, D.C. 20510-3802

Re: Restoration of Habeas Corpus

Dear Senators Leahy and Specter:

I am writing on behalf of the Association of the Bar of the City of New York to express the Association's strong support for S. 185, which you jointly introduced, entitled a bill "To Restore habeas corpus for those detained by the United States." The bill, among other things, would amend 28 U.S.C. § 2241 by striking out subsection (e), the provision inserted by the Detainee Treatment Act ("DTA") and the Military Commission Act ("MCA") stripping courts of habeas corpus jurisdiction with respect to aliens detained as "enemy combatants."

I understand that the Senate Judiciary Committee will be holding hearings on this bill and the subject of restoring habeas in the coming week. I have written to you and other members of Congress twice in the last two months, emphasizing the Association's deep concerns about the denial of habeas corpus to these detainees. We hope the hearings you are holding will be the impetus for immediate and urgent action to restore habeas corpus review for these detainees.

Many of these detainees have already been detained for over five years without charges and without any meaningful process to determine the legitimacy of their detention. The Supreme Court, apparently based on its own institutional principles of restraint, has delayed taking up the issue of the validity of the habeas stripping provisions at least pending the exhaustion of the D.C. Circuit's review, pursuant to the DTA, of the detainees' status determinations.

That process of review only means more delay and moreover is so limited that it is likely to prove inadequate. As we previously urged, Congress has a duty immediately to correct this grave injustice and stain on our Nation's reputation for fairness and support for the rule of law, without waiting for action by the courts.

For your convenience, I am attaching another copy of the Association's Report concerning the restoration of habeas corpus and the March 6, 2007 letter transmitting it, and a copy of our letter dated April 3, 2007, again urging prompt Congressional action to restore habeas corpus, in the wake of the Supreme Court's denial of certiorari in the cases seeking review of the habeas stripping provisions. These documents explain in greater detail why such action by Congress is immediately needed.

Sincerely,

A handwritten signature in cursive script that reads "Barry Kamins".

Barry M. Kamins

cc: Senate Judiciary Committee
Senator Hillary Clinton
New York City Congressional Delegation