

**State of Michigan LAW DAY 2009 Essay Contest**  
**"A Legacy of Liberty: Celebrating Lincoln's Bicentennial"**

**Michael Tyrel Payne ~ First Place ~ Eighth Grade**  
**Traverse City East Middle School, Traverse City, Michigan**  
**Teachers – Mrs. Brandi Reynolds & Ms. Judy Childs**

***Should the prisoners at Guantanamo Bay have the right to habeas corpus?***

Guantanamo Bay, a facility in Cuba that holds prisoners captured by the Army, contains enemy combatants, termed as "part of or supporting forces hostile to the United States or coalition partners in Afghanistan and who engaged in an armed conflict against the United States there." This means, in simpler terms, that the prisoners are considered threats to America; they engaged in combat against the United States or supported these combative factions. Giving these people the right to habeas corpus would be a blunder. The most basic Core Democratic Value, Life, supports keeping these prisoners detained. A person who is a danger to others' lives should remain imprisoned for the safety of America. Guantanamo Bay is also not on American soil; Guantanamo Bay is in Cuba. The people held there are not U.S. Citizens. Thus, the prisoners residing there are not guaranteed the same rights as American citizens on American soil.

The third supporting fact deals with the Suspension clause, the clause in the constitution that allows all people, except in the cases of rebellion or invasion, the right of habeas corpus. Its text and history demonstrate that "both of the exigencies for which the Constitution permits suspension of the writ of habeas corpus - rebellion and invasion - pertain to wartime conditions within the United States," as testified by the solicitor general in Boumediene v. Bush, 06-1195 (2007). Since the people in Guantanamo Bay are prisoners of war, they are not allowed the right. Past cases can also help make the decision. In Johnson v. Eisentrager, 339 U.S. 763(1950), it was ruled that U.S. courts had no jurisdiction over German prisoners of war held in a U.S. administered prison in Germany. These prisoners had at no time been on U.S. sovereign territory either, so this case is similar to Guantanamo; the prisoners in Guantanamo Bay are neither U.S. citizens nor on U.S. soil. In Swain v. Pressley, 430 U.S. 372 (1977), it was ruled that Congress may withdraw habeas jurisdiction if it provides an effective alternative remedy, such as with dangers posed to America.

In recent news, eleven of the 117 prisoners released from Guantanamo Bay, even after going through rehabilitation, returned to their previous acts of terrorism and have climbed up to the most wanted list of Saudi Arabia. This clearly shows that there were prisoners in Guantanamo Bay who are still dangerous, and from this it is easy to reason that at least a few of the remaining prisoners are a threat.

Safety is immensely valuable, and jeopardizing it because of the chance that a prisoner is neither guilty nor dangerous is a foolish risk. The people captured are enemy combatants, attacking U.S. soldiers or supporting these attacks. Releasing all of the enemy combatants to free the few that are not guilty would be a mistake. This leaves one option, and the safest one for America: take habeas corpus away from Guantanamo Bay prisoners.