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# Amicus Curiae Brief filed with the Supreme Court

Boston College Law School

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## Amicus Curiae Brief filed with the Supreme Court

4/14/04--Professor Daniel Kanstroom, Director of the International Human Rights Program at Boston College Law School, has written and filed an *amicus curiae* (friend of the court) brief, co-signed by more than 140 U.S. law professors, with the U.S. Supreme Court in the case of *Rumsfeld v. Padilla*.

The Padilla case raises the question of the power of the President to designate a U.S. citizen, Jose Padilla, as an "enemy combatant" and to hold and interrogate him in isolation, without counsel, visitors, or the right to trial for so long as the executive branch wishes to do so, without substantive judicial review. The Second Circuit Court of Appeals held that the President's powers as Commander-in-Chief do not go this far and that statutes passed many years ago protected Mr. Padilla.

The brief, drafted with the research assistance of four Boston College law students, Sara Leary, Hanh Nguyen, Tatum Pritchard, and Haimavathi Varadan, urges the Supreme Court to affirm the decision of the Second Circuit but also to apply well-accepted norms of international human rights law to make clear that:

- Mr. Padilla has a fundamental human right against arbitrary detention by the executive branch of government;
- This right derives from his humanity, not only from his U.S. citizenship;
- This right includes a right to counsel and to meaningful habeas corpus judicial review.

As Prof. Kanstroom has stated, "This case is the first of many that will test the way in which the U.S. legal system balances powerful security concerns against fundamental liberty guarantees that have taken centuries to develop. We have asked the Court to take this opportunity to apply the well-accepted norms of international human rights law—which are consonant with our best traditions as a constitutional democracy."

[Professor Kanstroom's website](#)