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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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RASUL ET AL. *v.* BUSH, PRESIDENT OF THE UNITED STATES, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMIBA CIRCUIT

No. 03–334. Argued April 20, 2004—Decided June 28, 2004*

Pursuant to Congress' joint resolution authorizing the use of necessary and appropriate force against nations, organizations, or persons that planned, authorized, committed, or aided in the September 11, 2001, al Qaeda terrorist attacks, the President sent Armed Forces into Afghanistan to wage a military campaign against al Qaeda and the Taliban regime that had supported it. Petitioners, 2 Australians and 12 Kuwaitis captured abroad during the hostilities, are being held in military custody at the Guantanamo Bay, Cuba, Naval Base, which the United States occupies under a lease and treaty recognizing Cuba's ultimate sovereignty, but giving this country complete jurisdiction and control for so long as it does not abandon the leased areas. Petitioners filed suits under federal law challenging the legality of their detention, alleging that they had never been combatants against the United States or engaged in terrorist acts, and that they have never been charged with wrongdoing, permitted to consult counsel, or provided access to courts or other tribunals. The District Court construed the suits as habeas petitions and dismissed them for want of jurisdiction, holding that, under *Johnson* v. *Eisentrager,* 339 U. S. 763, aliens detained outside United States sovereign territory may not invoke habeas relief. The Court of Appeals affirmed.

Held: United States courts have jurisdiction to consider challenges to the legality of the detention of foreign nationals captured abroad in

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*Together with No. 03–343, *Al Odah et al.* v. *United States et al.,* also on certiorari to the same court.

connection with hostilities and incarcerated at Guantanamo Bay. Pp. 4–17.

(a) The District Court has jurisdiction to hear petitioners' habeas challenges under 28 U. S. C. §2241, which authorizes district courts, "within their respective jurisdictions," to entertain habeas applications by persons claiming to be held "in custody in violation of the . . . laws . . . of the United States," §§2241(a), (c)(3). Such jurisdiction extends to aliens held in a territory over which the United States exercises plenary and exclusive jurisdiction, but not "ultimate sovereignty." Pp. 4–16.

(1) The Court rejects respondents' primary submission that these cases are controlled by *Eisentrager*'s holding that a District Court lacked authority to grant habeas relief to German citizens captured by U. S. forces in China, tried and convicted of war crimes by an American military commission headquartered in Nanking, and incarcerated in occupied Germany. Reversing a Court of Appeals judgment finding jurisdiction, the *Eisentrager* Court found six critical facts: The German prisoners were (a) enemy aliens who (b) had never been or resided in the United States, (c) were captured outside U. S. territory and there held in military custody, (d) were there tried and convicted by the military (e) for offenses committed there, and (f) were imprisoned there at all times. 339 U. S., at 777. Petitioners here differ from the *Eisentrager* detainees in important respects: They are not nationals of countries at war with the United States, and they deny that they have engaged in or plotted acts of aggression against this country; they have never been afforded access to any tribunal, much less charged with and convicted of wrongdoing; and for more than two years they have been imprisoned in territory over which the United States exercises exclusive jurisdiction and control. The *Eisentrager* Court also made clear that all six of the noted critical facts were relevant only to the question of the prisoners' *constitutional* entitlement to habeas review. *Ibid.* The Court's only statement on their *statutory* entitlement was a passing reference to its absence. *Id.,* at 768. This cursory treatment is explained by the Court's then-recent decision in *Ahrens* v. *Clark,* 335 U. S. 188, in which it held that the District Court for the District of Columbia lacked jurisdiction to entertain the habeas claims of aliens detained at Ellis Island because the habeas statute's phrase "within their respective jurisdictions" required the petitioners' presence within the court's territorial jurisdiction, *id.,* at 192. However, the Court later held, in *Braden* v. *30th Judicial Circuit Court of Ky.,* 410 U. S. 484, 494–495, that such presence is not "an invariable prerequisite" to the exercise of §2241 jurisdiction because habeas acts upon the person holding the prisoner, not the prisoner himself, so that the court acts "within [its] re-

spective jurisdiction" if the custodian can be reached by service of process. Because *Braden* overruled the statutory predicate to *Eisentrager*'s holding, *Eisentrager* does not preclude the exercise of §2241 jurisdiction over petitioners' claims. Pp. 6–11.

(2) Also rejected is respondents' contention that §2241 is limited by the principle that legislation is presumed not to have extraterritorial application unless Congress clearly manifests such an intent, *EEOC* v. *Arabian American Oil Co.,* 499 U. S. 244, 248. That presumption has no application to the operation of the habeas statute with respect to persons detained within "the [United States'] territorial jurisdiction." *Foley Bros., Inc.* v. *Filardo,* 336 U. S. 281, 285. By the express terms of its agreements with Cuba, the United States exercises complete jurisdiction and control over the Guantanamo Base, and may continue to do so permanently if it chooses. Respondents concede that the habeas statute would create federal-court jurisdiction over the claims of an American citizen held at the base. Considering that §2241 draws no distinction between Americans and aliens held in federal custody, there is little reason to think that Congress intended the statute's geographical coverage to vary depending on the detainee's citizenship. Aliens held at the base, like American citizens, are entitled to invoke the federal courts' §2241 authority. Pp. 12–15.

(3) Petitioners contend that they are being held in federal custody in violation of United States laws, and the District Court's jurisdiction over petitioners' custodians is unquestioned, cf. *Braden,* 410 U. S., at 495. Section 2241 requires nothing more and therefore confers jurisdiction on the District Court. Pp. 15–16.

(b) The District Court also has jurisdiction to hear the *Al Odah* petitioners' complaint invoking 28 U. S. C. §1331, the federal question statute, and §1350, the Alien Tort Statute. The Court of Appeals, again relying on *Eisentrager*, held that the District Court correctly dismissed these claims for want of jurisdiction because the petitioners lacked the privilege of litigation in U. S. courts. Nothing in *Eisentrager* or any other of the Court's cases categorically excludes aliens detained in military custody outside the United States from that privilege. United States courts have traditionally been open to nonresident aliens. Cf. *Disconto Gesellschaft* v. *Umbreit,* 208 U. S. 570, 578. And indeed, §1350 explicitly confers the privilege of suing for an actionable "tort . . . committed in violation of the law of nations or a treaty of the United States" on aliens alone. The fact that petitioners are being held in military custody is immaterial. Pp. 16–17.

(c) Whether and what further proceedings may become necessary after respondents respond to the merits of petitioners' claims are not here addressed. P. 17.

321 F. 3d 1134, reversed and remanded.

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STEVENS, J., delivered the opinion of the Court, in which O'CONNOR, SOUTER, GINSBURG, and BREYER, JJ., joined. KENNEDY, J., filed an opinion concurring in the judgment. SCALIA, J., filed a dissenting opinion, in which REHNQUIST, C. J., and THOMAS, J., joined.