

Tillery, Monica J

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**From:** Dolan, JoAnn (SBU)  
**Sent:** Thursday, November 13, 2003 4:43 PM  
**To:** Miller, Ronald W; Crowley, John W (EAP/ANP)  
**Cc:** Tsou, Leslie M; Mitman, Matthias J; Buchwald, Todd F (SBU); Brooks, Waldo W (SBU); Cummings, Edward R (SBU); Dorosin, Joshua L (SBU)  
**Subject:** FW: Comments by Australian Foreign Minister re Hicks, Habib, and Military Commissions

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-----Original Message-----

**From:** Dukes, Thomas, Maj, DoD OGC [mailto:dukest@dodgc.osd.mil]  
**Sent:** Thursday, November 13, 2003 3:35 PM  
**To:** JoAnn Dolan (DOLANJA@ms.state.gov)  
**Subject:** FW: Comments by Australian Foreign Minister re Hicks, Habib, and Military Commissions

-----Original Message-----

**From:** Dukes, Thomas, Maj, DoD OGC  
**Sent:** Wednesday, November 12, 2003 13:12  
**To:** Cobb, Whit, Mr, DoD OGC; Hemingway, Thomas, BG, DoD OGC; Butler, Paul, CIV, OSD-POLICY  
**Cc:** Borch, Fred, COL, DoD OGC; Smith, John, MAJ, DoD OGC; Nolan, John, LCDR, DoD OGC; Connolly, Sean, CPT, DoD OGC; Lang, Scott, CDR, DoD OGC; Hyams, Ross, CIV, OSD-POLICY  
**Subject:** Comments by Australian Foreign Minister re Hicks, Habib, and Military Commissions

Here is a report of the Australian Foreign Minister's comments re military commissions and Hicks & Habib:

v/r

Tom

Copyright 2003 AAP Information Services Pty. Ltd. - AAP NEWSFEED  
November 11, 2003, Tuesday 1:54 AM Eastern Time  
HEADLINE: US: Keep Hicks and Habib off the streets, says Downer  
BYLINE: By Paul Mulvey

BODY:

Foreign Minister Alexander Downer said the two Australians who won the right to appeal to the US Supreme Court against their detention at Guantanamo Bay should be kept off the streets.

David Hicks and Mamdouh Habib have been held at the US military base in Cuba since late 2001 for allegedly having links with terrorist group al-Qaeda.

The US Supreme Court announced today it would hear appeals by foreign detainees against their incarceration.

Mr Downer said the US should take Hicks and Habib before a military commission rather than leave them in limbo but added he was pleased they were kept off the streets.

"We've said all along these people have been detained as combatants in conflict," Mr Downer said tonight in London where he is to attend the dedication of an Australian War Memorial tomorrow.

UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: FRANK E SCHMELZER  
DATE/CASE ID: 16 DEC 2004 200303827

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"These are people, in the case of the two Australians, who have been training with al-Qaeda, this is the world's worst terrorist organisation, that's something we take very seriously.

"When there's a war on against al-Qaeda we don't feel comfortable about people who've trained with al-Qaeda walking around our streets.

"These are two Australians who have been training with al-Qaeda and training for some significant time and they have been caught and they have been detained.

"We've been talking with the Americans about the establishment of a military commission so their case can be heard.

"But I'm glad people who have trained with al-Qaeda aren't wandering the streets of Australia quite frankly."

The Supreme Court agreed to review a ruling that US courts lack jurisdiction to consider claims by a group of foreign detainees held without access to their families or lawyers, and held without any charges brought against them.

Mr Downer said Australia would have to wait and see what the Supreme Court decided.

"This is entirely a matter for the US Supreme Court," he said.

"There have been applications made in lower courts in the United states for those courts to accept Guantanamo Bay as part of America's legal jurisdiction and these appeals have been rejected.

"This time the appeal has gone to the US Supreme Court, they've said they'll hear the case. We'll have to wait and see what conclusions they draw.

"We don't offer any opinion on that."

Adelaide-born Hicks, 27, will be among the first six Guantanamo Bay detainees to face a hearing by a US military commission, a date for which is still to be announced.

He was captured allegedly fighting for the Taliban in Afghanistan in November 2001 and has not been charged.

Habib, a 47-year-old father of four, was seized by Pakistani police in October 2001 while travelling from the city of Quetta to Karachi in order to fly back to Australia.