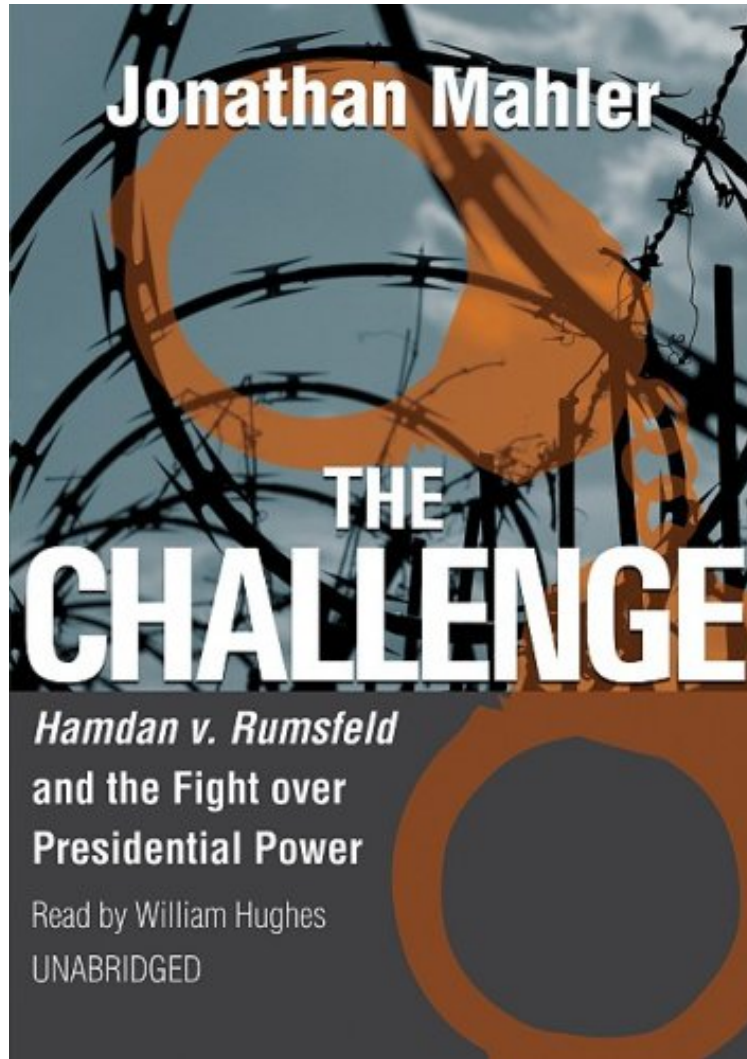


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## The Challenge: Hamdan v. Rumsfeld and the Fight over

*Jonathan Mahler*

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**Jonathan Mahler : The Challenge: Hamdan v. Rumsfeld and the Fight over** before purchasing it in order to gage whether or not it would be worth my time, and all praised The Challenge: Hamdan v. Rumsfeld and the Fight over:

22 of 22 people found the following review helpful. Hamdan vs. Rumsfeld By Ward Orr Here is an astonishing story in which two unlikely and oddly paired attorneys (read heroes) take on the United States government on behalf of a Yemeni citizen detained at Guantanamo. Neither Lt. Cmdr. Charles Swift, the navy lawyer assigned to the case, nor Neal Katyal, the Georgetown law professor who volunteered to help, could have imagined where the case would take them nor what it would require of their careers, family, and personal well being. But the story of what they did, how

they did it, what it took, who helped, and how it all came out is as amazing as it is important, resulting in one of the most significant legal decisions of the post 9/11 era, the Supreme Court's ruling on Hamdan Against Rumsfeld. Jonathan Mahler relates the tangled and extraordinarily complex sequence of events and legal maneuvers with such mastery of the material, you have to believe he had a degree in law was on hand for every conversation, discussion, and encounter. The Challenge is a gratifying David and Goliath story, but its real worth lies in the issues of justice and constitutionality which this case brings to the fore and which determine whether anyone will receive the justice presumably guaranteed by our constitution and international law.

1 of 1 people found the following review helpful.  
Fighting for basic rights when the ENTIRE government is against you  
By mbpinnyc  
I've read several negative reviews for this book that insinuate that only legal and political geeks will find it "a thriller", and I may be either or both, but I was absolutely thrilled by it. (I'm not the only one by the way, I hear Clooney and Damon are making a film version.) Some reviewers I've read have been unable to get past their political ideologies and trash the book for portraying Hamdan (bin Laden's driver) sympathetically. But I would argue that if one truly believes in basic human rights; that all people are entitled to the basics of due process (after all there is a real possibility that we've incarcerated the wrong guy, despite right-wing gov't bashers who seem to think the gov't ONLY works perfectly when rounding up "terrorists") and that military and civilian leaders with the know-how and guts to try and stop the ruthless abuse of power by almost every branch and level of our gov't. must be commended for engaging in such a quixotic and unpopular battle, than you WILL be thrilled by this book, because you realize they are protecting all of us through their ridiculously hard work, with 1/16 of the press coverage Paris Hilton gets for a night out on the town.

3 of 3 people found the following review helpful.  
A story of heroism in the pursuit of justice  
By K.S.Ziegler  
As one who has followed the Supreme Court detainee cases concerning Hamdi, Rasul, Hamdan, and Boumediene, I was pleased to obtain this book, which contains background on the Hamdan case. The Hamdan case centered around the legality of military commissions as conceived and set up by the Bush Administration (Cheney and Addington). At bottom, the issue is one of Presidential power and how far the President can go unilaterally during times of war without the intervention of the Legislative and Judicial branches. I found that in addition to providing some generalized legal background, this book lends a human perspective on what was going on as a result of the government's legal response to 9/11. Salim Hamdan grew up in a poor, backward farming region of Yemen, received something like a fourth grade education, and was orphaned by the time he was eleven. Adrift at a young age in a place that celebrated religious martyrdom, he fell under the spell of a radical jihadist and eventually made his way during the 90s to Afghanistan where he became employed as Osama bin Laden's driver and bodyguard. After 9/11 he was captured by the Northern Alliance and turned over to the U.S. for a ransom. After the order was signed by Bush to set up the military commissions, Hamdan was one of the first to be charged. The main part of the story concerns the heroic efforts of especially two lawyers, law professor Neal Katyal and Charles Swift of the JAG corps, in taking up Hamdan's case and eventually presenting it before the Supreme Court. Katyal became the driving force. He had been a hawk when working in the Clinton Administration concerning running down al Qaeda and had later supported the Patriot Act, but he had serious qualms about giving the President a blank check in setting up military commissions. It was a heroic effort especially in light of what they were going up against: an executive branch that was determined to use a state-of-war emergency to justify its powers. "We're going to crush you", one of the government lawyers said when Katyal faced the Court of Appeals. An interesting note is that Chief Justice John Roberts was on the three judge panel for that case, and apparently was being considered by Bush as a Supreme Court nominee during that very period. It was a disturbing conflict of interest that Katyal perceived, but about which he could do nothing. In the end, Hamdan - at least the Hamdan before his extended detention - was simply not a dangerous individual. Finally, after all the time spent detained, much of it in solitary confinement, a military court found him not guilty of conspiracy in 2008. There was simply no evidence, nor did he give indications during interviews, that he was a dangerous conspirator. Concerning the interviews, it is interesting to note that the useful and valuable information he provided about al Qaeda was not extracted as a result of mistreatment he received particularly at the Bagram prison, but as a result of attempts by an FBI agent Ali Soufan to build a relationship with him. Legal precedent and ambiguous applications of the law present great complexity here that can make the arguments on where to draw the line on Presidential power difficult for a layman to follow. But the original purpose is clear: bring the detainees at Guantanamo to justice. As we can see from the results, by going to an extreme and insisting that Hamdan did not have rights under the Geneva Conventions and that the President was free to depart however much he wanted from the UCMJ (Uniform Code of Military Justice) in setting up the legal apparatus of the military commissions, that entire purpose of bringing the detainees to justice was undermined. It is as if the executive was simply thinking in terms of expediency and didn't care about justice. In any event, the upshot was that they caused all manner of attention about possible injustices to be focused on the very people they were trying to prosecute.

A legal thriller in the spirit of A Civil Action and set against the backdrop of the war on terror, Hamdan v. Rumsfeld is the true inside story of perhaps the most important decision on presidential power and of a brave lawyer who risked his career for justice.

.com Best of the Month, August 2008: There have by now been many insider accounts of the Bush Administration and its War on Terror. Jonathan Mahler's *The Challenge: Hamdan v. Rumsfeld and the Fight over Presidential Power*, on the other hand, is very much an outsider's account: the story of two lawyers and their attempt to scale the walls of the American government and overturn the system of military commissions set up to try the detainees at Guantanamo Bay. One observer called *Hamdan v. Rumsfeld* "the most important decision on presidential power and the rule of law, ever," and Mahler's focus on the odd-couple lawyers--the blustery, impulsive Navy JAG who made defending Hamdan his mission and the brilliant and tireless Indian immigrant's son who risked a meteoric career with his obsession with the case--and his ability to communicate the grave constitutional consequences of the case and the often bizarrely circuitous path they must take to reach the Supreme Court make for a thrilling and moving drama of justice, democracy, and the patriotism of challenging your own government. --Tom Nissley Mahler's account of Hamdan's treatment at Guantanamo Bay makes *The Challenge* an important book. Carol A. Sigmond, *The Federal Lawyer* With an engaging writing style and eye to detail, Mr. Mahler takes the reader through Mr. Hamdan's evolution from a street urchin to one of a handful of high value enemy combatants. If *The Challenge* offers a good account of the making of an implausible warrior jihadi, it provides an excellent account of the making of equally implausible warrior lawyers. *The Challenge* is not just a very readable account of an important case. It is also an intimate account of the lawyers who overcame personal conflicts, animus and flaws to produce a decision for the ages. It is an intriguing tale of how a unique convergence of personalities propelled an unlikely dabbler from Yemen to international prominence. Jonathan Turley, *The New York Times* The work of lawyers for a detainee is brilliantly explored in Jonathan Mahler's *The Challenge: Hamdan v. Rumsfeld and the Fight over Presidential Power*. But it is much more than a book about law and lawyers. It tells the story of a captive who gave his name to a great constitutional decision; and it describes the personal struggles of his lawyers, their courage, and their faults. The result is a work of rare drama. Anthony Lewis, *New York of Books*