

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-1195

September Term, 2020

CMCR-17-001

Filed On: October 27, 2020

Ibrahim Ahmed Mahmoud Al Qosi,

Petitioner

v.

United States of America,

Respondent

Consolidated with 20-1196

BEFORE: Henderson, Rogers, and Walker*, Circuit Judges

ORDER

Upon consideration of the petition for review; the petition for writ of mandamus; and the motion to dismiss, the opposition thereto, and the reply, it is

ORDERED that the motion to dismiss be granted and the petitions be dismissed for lack of jurisdiction because there is no evidence that petitioner authorized counsel to pursue these petitions. See In re Al Qosi, 602 F. App'x 542, 543 (D.C. Cir. 2015).

* A statement by Circuit Judge Walker, concurring in the disposition of the motion to dismiss, is attached to this order.

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate in No. 20-1195 until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Manuel J. Castro
Deputy Clerk

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WALKER, *Circuit Judge*, concurring: For nearly two decades, many talented attorneys have represented detainees at Guantanamo Bay. They include advocates at the Military Commissions Defense Organization, professors at more than a few elite law schools, and litigators from scores of the nation's most prestigious law firms.

Some of those attorneys, perhaps most, have shown a prudent appreciation for the fine line separating zealous advocacy from frivolous tactics designed only to delay and disrupt.

* * *

Ibrahim al Qosi is a convicted Islamist terrorist. He met Osama bin Laden in the 1990s. He joined al Qaeda. He lived alongside its senior leaders. Armed with an M-43 120mm mortar, he fought on the frontlines of Afghanistan. He fled with bin Laden to Tora Bora.

In 2001, al Qosi was captured, sent to Guantanamo Bay, and charged before a military tribunal. There, he received a team of lawyers and a bevy of procedural protections. And there he pled guilty to charges related to terrorism.

In exchange for his guilty plea, al Qosi received a fourteen-year sentence. And in exchange for waiving his right to appeal, he was released after just two years.

In 2015, three years after his release, al Qosi resurfaced as a senior leader of al Qaeda in the Arabian Peninsula. At the time, the United States considered it al Qaeda's most dangerous branch. Al Qosi continues to sit on its war cabinet.

Al Qosi's former counsel has spent much of the past eight years appealing al Qosi's conviction. This, despite his guilty plea. And despite the procedural protections afforded him before that plea. And despite his waiver of any appellate rights. And despite eight years of no contact between al Qosi and any attorney in this case.

We have already dismissed this appeal once.¹ Now "his" attorneys are back again — even though they can't prove al Qosi asked for an appeal, consented to it, or is even aware of it.

* * *

To describe this case is to decide it.²

¹ *In re Al Qosi*, 602 F. App'x 542, 543 (D.C. Cir. 2015) (per curiam).

² *Cf. Morrison v. Olson*, 487 U.S. 654, 703 (1988) (Scalia, J., dissenting) ("If to describe this case is not to decide it. . .").