

[NOT SCHEDULED FOR ORAL ARGUMENT]

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CHAMAN)	
Appellant,)	
)	No. 10-5130
v.)	
)	
BARACK OBAMA, et al.,)	
Appellees.)	
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AMINULLAH)	
Appellant,)	
)	No. 10-5131
v.)	
)	
BARACK OBAMA, et al.,)	
Appellees.)	
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MUSTAFA AHMED HAMLILY)	
Appellant,)	
)	No. 10-5179
v.)	
)	
LEON E. PANETTA, et al.,)	
Appellees.)	
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BENJAMIN HABASHI, et al.,)	
Appellants,)	
)	No. 10-5182
v.)	
)	
BARACK OBAMA, et al.,)	
Appellees.)	
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AHMED ZAID SALEM ZUHAIR)	
Appellant,)	
)	No. 10-5183
v.)	
)	
BARACK OBAMA, et al.,)	
Appellees.)	
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MOHAMMED SULAYMON BARRE)	
Appellant,)	
)	No. 10-5203
v.)	
)	
BARACK OBAMA, et al.,)	
Appellees.)	
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APPELLEES’ MOTION TO GOVERN

Appellants in these cases (hereinafter “petitioners”) are habeas petitioners who were previously in the custody of the United States at the Guantanamo Bay Naval Base. Petitioners brought habeas actions challenging the lawfulness of their detention by the United States. Thereafter, they were released from United States custody and transferred to other countries. In light of those changed circumstances, the district court dismissed their habeas petitions, along with those of other former detainees, as moot. A number of former detainees appealed to this Court, including petitioners in these cases.

On appeal, this Court held these cases in abeyance pending disposition of the

closely related appeals of other former detainees whose petitions had been dismissed as moot, *Gul v. Obama et al.*, No. 10-5117 (D.C. Cir.), and *Hamad v. Obama et al.*, 10-5118 (D.C. Cir.). On July 22, 2011, this Court resolved those cases, holding that the habeas petitions of Gul and Hamad are moot and therefore affirming the district court's dismissal of their petitions. *Gul v. Obama*, 652 F.3d 12 (2011). Gul and Hamad petitioned for rehearing en banc, which this Court denied.

Following the resolution of *Gul*, appellees' moved for summary affirmance in these and other cases that had been stayed pending *Gul*. On December 2, 2011, this Court ordered that these cases continue to be held in abeyance and deferred consideration of appellees' motion for summary affirmance pending resolution of the petition for certiorari in *Gul*.

On April 16, 2012, the Supreme Court denied certiorari in *Gul*. *Gul* is now final and is the law of the circuit, and, for the reasons explained in appellees' prior motion for summary affirmance, directly controls the outcome in petitioners' cases here. Appellees therefore respectfully request that this Court move these cases to the active calendar, consider appellees' prior motion for summary affirmance, and grant summary affirmance.

CONCLUSION

For the foregoing reasons, the government respectfully requests that this Court consider and grant appellees' prior motion for summary affirmance.

Respectfully submitted,

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Counsel for appellees

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES**(A) PARTIES AND AMICI**

Chaman v. Obama et al. (No. 10-5130):

Petitioners-appellants:

Chaman

Respondents-appellees:

Barack Obama, President of the United States

Leon E. Panetta, Secretary of Defense

Jeffrey Harbeson, Navy Rear Admiral

Donnie Thomas, Army Colonel

Aminullah v. Obama et al. (No. 10-5131):

Petitioners-appellants:

Aminullah

Respondents-appellees:

Barack Obama, President of the United States

Leon E. Panetta, Secretary of Defense

Jeffrey Harbeson, Navy Rear Admiral

Donnie Thomas, Army Colonel

Hamliily v. Panetta et al. (No. 10-5179):

Petitioner-appellant:

Mustafa Ahmed Hamliily

Respondents-appellees:

Leon E. Panetta, Secretary of Defense

Jeffrey Harbeson, Navy Rear Admiral

Donnie Thomas, Army Colonel

Habashi et al. v. Obama et al. (No. 10-5182):

Petitioners-appellants:

Benjamin Mohammed Al Habashi

Shaker Aamer, as next friend of Benjamin Mohammed al Habashi

Respondents-appellees:

Barack Obama, President of the United States

Leon E. Panetta, Secretary of Defense

Jeffrey Harbeson, Navy Rear Admiral

Donnie Thomas, Army Colonel

Zuhair v. Obama et al. (No. 10-5183):

Petitioners-appellants:

Ahmed Zaid Salem Zuhair

Respondents-appellees:

Barack Obama, President of the United States

Leon E. Panetta, Secretary of Defense

Jeffrey Harbeson, Navy Rear Admiral

Donnie Thomas, Army Colonel

Barre v. Obama et al. (No. 10-5203):Petitioners-appellants:

Mohammed Sulaymon Barre

Respondents-appellees:

Barack Obama, President of the United States

Leon E. Panetta, Secretary of Defense

Jeffrey Harbeson, Navy Rear Admiral

Donnie Thomas, Army Colonel

(B) RULINGS UNDER REVIEW

Orders of the district court:

No. 05-1237 (D.D.C.), docket #112 (Chaman)

No. 05-0887 (D.D.C.), docket #71 (Aminullah)

No. 08-01628 (D.D.C.), docket # 35 (Hamlily)

No. 05-0765 (D.D.C.), docket # 200 (Habashi)

No. 08-0864 (D.D.C.), docket # 231 (Zuhair)

No. 08-01153 (D.D.C.), docket # 174 (Barre).

(C) RELATED CASES

These cases have not previously been before this Court or any other court.

There are thirteen public appeals that are or were pending before this Court and that present the same legal issues as these cases:

Gul v. Obama, et al., No. 10-5117 (D.C. Cir.);

Adel Hamad v. Obama, et al., No. 10-5118 (D.C. Cir.);

Khan v. Obama, et al., No. 10-5019 (D.C. Cir.);

Rimi v. Obama, et al., No. 10-5021 (D.C. Cir.);

Hamoodah, et al. v. Obama, et al., No. 10-5023 (D.C. Cir.);

Al Hajji, et al. v. Obama, et al., No. 10-5024 (D.C. Cir.);

Chaman v. Obama, et al., No. 10-5130 (D.C. Cir.);

Aminullah v. Obama, et al., No. 10-5131 (D.C. Cir.);

Hamlily v. Panetta, et al., No. 10-5179 (D.C. Cir.);

Habashi et al. v. Obama, et al., No. 10-5182 (D.C. Cir.);

Zuhair v. Obama, et al., No. 10-5183 (D.C. Cir.);

Barre v. Obama, et al., No. 10-5203 (D.C. Cir.);

El-Mashad, et al. v. Obama, et al., No. 10-5232 (D.C. Cir.).

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CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2012, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

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