

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-1324**September Term, 2015****CMCR-09-001****Filed On: September 25, 2015**

Ali Hamza Ahmad Suliman al Bahlul,

Petitioner

v.

United States of America,

Respondent

BEFORE: Garland, Chief Judge; Henderson, Rogers, Tatel, Brown, Griffith, Kavanaugh, Srinivasan*, Millett, Pillard, and Wilkins, Circuit Judges

ORDER

Upon consideration of the petition of the United States of America for rehearing en banc, the response thereto, and the vote in favor of the petition by a majority of the judges eligible to participate, it is

ORDERED that the petition be granted. This case will be reheard by the court sitting en banc. It is

FURTHER ORDERED that the judgment filed June 12, 2015, be vacated. It is

FURTHER ORDERED that oral argument before the en banc court be heard Tuesday, December 1, 2015, at 9:30 a.m. It is

FURTHER ORDERED that, in addition to filing briefs and the appendix electronically, the parties file 30 paper copies each of the briefs and appendix, in accordance with the following schedule:

Brief for Petitioner Bahlul	October 13, 2015
Appendix	October 13, 2015
Amicus Curiae Brief in Support of Petitioner (if any)	October 13, 2015

* Circuit Judge Srinivasan did not participate in this matter.

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Brief for Respondent United States	November 2, 2015
Amicus Curiae Brief in Support of Respondent (if any)	November 2, 2015
Reply Brief for Petitioner Bahlul	November 12, 2015

It is

FURTHER ORDERED that in addition to other issues raised in the petition of the United States for rehearing en banc, the parties are specifically directed to address in their briefs the following:

(1) The standard of appellate review of Bahlul's conviction for conspiracy to commit war crimes. See, e.g., *Wellness Int'l Network, Ltd. v. Sharif*, 135 S. Ct. 1932 (2015); *CFTC v. Schor*, 478 U.S. 833 (1986); and

(2) Whether the Define and Punish Clause of Article I of the Constitution gives Congress power to define as an Offense against the Law of Nations -- triable before a law-of-war military commission -- a conspiracy to commit an Offense against the Law of Nations, to wit, a conspiracy to commit war crimes; and whether the exercise of such power transgresses Article III of the Constitution.

Because the briefing schedule is keyed to the date of argument, the court will grant requests for extension of time limits only for extraordinarily compelling reasons. In addition to electronic filing, parties and amici curiae are directed to hand deliver their briefs and appendix to the Clerk's office on the date due. The briefs and appendix must contain the date that the case is scheduled for oral argument at the top of the cover. See D.C. Cir. Rule 28(a)(8).

A separate order will issue regarding allocation of oral argument time.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Michael C. McGrail
Deputy Clerk