

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19-5079

September Term, 2022

FILED ON: APRIL 4, 2023

ABDULSALAM ALI ABDULRAHMAN AL-HELA, DETAINEE CAMP DELTA, ALSO KNOWN AS ABD
AL-SALAM ALI AL-HILA AND ABDULWAHAB ALI ABDULRAHMAN AL-HELA, AS NEXT FRIEND OF
ABDULSALAM ALI ABDULRAHMAN AL-HELA,
APPELLANTS

v.

JOSEPH R. BIDEN, JR., PRESIDENT OF THE UNITED STATES, ET AL.,
APPELLEES

On Petition for Rehearing En Banc

Before: SRINIVASAN, *Chief Judge*, HENDERSON, ROGERS*, TATEL*, MILLETT, PILLARD,
WILKINS, KATSAS**, RAO, WALKER, JACKSON***, CHILDS**, and PAN**, *Circuit Judges*, and
RANDOLPH, *Senior Circuit Judge*

J U D G M E N T

This cause came on to be heard on the record on appeal from the United States District Court for the District of Columbia and was argued by counsel. On consideration thereof, and in accordance with the opinion of the Court filed herein this date, it is

ORDERED and **ADJUDGED** that the District Court's finding that Mr. al-Hela is an enemy combatant be affirmed because the District Court's procedures at the merits stage, which satisfied the Suspension Clause, also provided what the Due Process Clause would require; that, assuming due process protections apply to Guantanamo detainees, the District Court's rejection of Mr. al-Hela's substantive due process challenge based solely on the length of his detention be affirmed; and that Mr. al-Hela's claim that continuing to detain him if he no longer presents an ongoing threat violates substantive due process be remanded to the District Court for further proceedings in accordance with the opinion of the Court filed herein this date. Before the District Court considers the substantive due process claim, it should consider the effect of the Periodic Review Board's Determination on mootness and the President's authority to continue to detain Mr. al-Hela under the AUMF.

Per Curiam

*Circuit Judges Rogers and Tatel assumed senior status after this case was argued and before the date of this opinion.

**Circuit Judges Katsas, Childs, and Pan did not participate in this matter.

***Circuit Judge, now Justice, Jackson was a member of the *en banc* Court at the time the case was argued but did not participate in the disposition of this matter.

No. 19-5079**September Term, 2022****FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Daniel J. Reidy

Deputy Clerk

Date: April 4, 2023

Opinion for the Court filed by Circuit Judge Wilkins.

Concurring opinion filed by Circuit Judge Pillard, with whom Circuit Judges Rogers and Millett join.

Opinion concurring in the judgment in part and dissenting in part filed by Circuit Judge Rao, with whom Circuit Judge Walker joins.

Opinion concurring in the judgment and dissenting filed by Senior Circuit Judge Randolph, with whom Circuit Judges Henderson and Walker join.