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Frederick Banks v. China

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-2746

FREDERICK H. BANKS,
as next friend of Thousands of Muslims detained in China “Vocational Camps”;
Prisoners detained in Egypt without medical care;
Augusta GA Grade Schoolers

v.

CHINA; EGYPT; AUGUSTA GEORGIA; CENTRAL INTELLIGENCE AGENCY;
ATTORNEY GENERAL PENNSYLVANIA

Frederick H. Banks,
Appellant

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civ. No. 1-19-cv-01102)
District Judge: Honorable Christopher C. Conner

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2) or for
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
November 21, 2019

Before: MCKEE, SHWARTZ and PHIPPS, Circuit Judges

(Opinion filed: February 6, 2020)

OPINION*

PER CURIAM

In June 2019, Frederick Banks filed a pro se petition pursuant to 28 U.S.C. § 2241 in the United States District Court for the Middle District of Pennsylvania. He alleged that the Central Intelligence Agency (CIA) was using “remote FISA electronic surveillance” to: (1) detain “thousands of Muslims . . . in China vocational camps”; (2) detain Egyptians and deny them medical care; and (3) cause grade schoolers in Augusta, Georgia, to be denied sufficient meals. Pet. 5-8, ECF No. 1. He sought to prosecute this habeas petition as “next friend” to the alleged victims. The District Court determined that Banks lacked Article III standing to pursue a habeas petition on their behalf and dismissed the petition. Banks appeals.¹

We have jurisdiction under 28 U.S.C. § 1291.² We will summarily affirm the District Court’s order. The purpose of the next-friend procedure is to afford access to the

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

¹ Bank sought reconsideration of the District Court’s order, but the District Court denied relief. Because Banks has not filed a notice of appeal seeking review of that order, this Court lacks jurisdiction to review it. See Carrascosa v. McGuire, 520 F.3d 249, 253 (3d Cir. 2008).

² A certificate of appealability is not required to appeal from the denial of a § 2241 petition. See Burkey v. Marberry, 556 F.3d 142, 146 (3d Cir. 2009).

courts to a “real party in interest [who] is unable to litigate his own cause due to mental incapacity, lack of access to court, or other similar disability.” Whitmore v. Arkansas, 495 U.S. 149, 165 (1990); see also In re Zettlemyer, 53 F.3d 24, 27 (3d Cir. 1995), as amended (May 2, 1995) (per curiam). Next-friend standing is proper where the next-friend applicant has a significant relationship with the real party in interest, and the next-friend applicant is “truly dedicated to the best interests of the person on whose behalf he seeks to litigate.” Id. at 163-64.

We agree with the District Court that Banks lacked next-friend standing to pursue this petition. Banks failed to demonstrate, among other things, that the petitioners are unable to litigate their own case or that he has a significant relationship with any of them. Accordingly, because no substantial question is presented by this appeal, we will summarily affirm the District Court’s order. See Third Cir. LAR 27.4 and I.O.P. 10.6.