

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12-3083

September Term, 2013

FILED ON: NOVEMBER 20, 2013

UNITED STATES OF AMERICA,
APPELLEE

v.

YAHYA ALI ZAITAR, ALSO KNOWN AS ABU RABIH, ALSO KNOWN AS YEHYA ALI DAOUD ZEITER,
APPELLANT

Consolidated with 12-3085

Appeals from the United States District Court
for the District of Columbia
(No. 1:07-cr-00329-1)

Before: TATEL and KAVANAUGH, *Circuit Judges*, and WILLIAMS, *Senior Circuit Judge*

J U D G M E N T

These consolidated appeals were considered on the record from the United State District Court for the District of Columbia and on the briefs and arguments of the parties. The court has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. Cir. R. 36(d). It is hereby

ORDERED and **ADJUDGED** that the case be remanded to the district court for further proceedings.

Appellant Yahya Alia Zaitar pleaded guilty to two separate drug conspiracy charges and was sentenced to 108 months in prison. He now appeals, alleging that that his guilty plea was induced by his counsel's erroneous promise that he would receive a substantially lower sentence. As is our general practice when an appellant raises a colorable claim of ineffective assistance of counsel that cannot be decided on the basis of the trial record, we remand for the district court to conduct any further proceedings necessary to evaluate appellant's claim. *See United States v. Mohammed*, 693 F.3d 192, 202 (D.C. Cir. 2012); *United States v. Rashad*, 331 F.3d 908, 910 (D.C. Cir. 2003).

The Clerk is directed to withhold the issuance of the mandate herein until seven days after the resolution of any timely petition for rehearing or rehearing en banc. *See* Fed. R. App. P. 41(b);

D.C. Cir. R. 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Jennifer M. Clark
Deputy Clerk