

medical evaluation and access to medical records. *Id.* at 47. Like Al Hajj, petitioner in *O.K.* claimed that he was “in poor and deteriorating physical and mental health.” *Id.* Judge Bates addressed the cases’ common issue explicitly: “[A] prisoner has no discrete right to outside or independent medical treatment.” *Id.* at 61. “The Court is exceptionally reluctant to monitor the medical care of detainees in the absence of a colorable assertion of some substantive violation of a legal right.” *Id.* at 62. Out-of-Circuit, non-Guantanamo prisoner litigation follows the same trend. *See Dulany v. Carnahan*, 132 F.3d 1234, 1239 (8th Cir. 1997) (“As long as [there is no intentional neglect], inmates have no constitutional right to receive a particular or requested course of treatment, and prison doctors remain free to exercise their independent medical judgment.”); *Roberts v. Spalding*, 783 F.2d 867, 870 (9th Cir. 1986) (“A prison inmate has no independent constitutional right to outside medical care additional and supplemental to the medical care provided by the prison staff within the institution.”).

Al Hajj does not claim that the Guantanamo medical team has neglected their duties, nor does he claim they have violated any of his rights. On the contrary, all parties agree that the medical staff has treated Al Hajj with all due care and professionalism. Instead, Al Hajj’s call for relief rests on a “judicial access” claim. This Court recognizes—and has defended—the right of detainees to have “adequate, effective and meaningful access to the courts.” *In re Guantanamo Bay Detainee Continued Access to Counsel*, 892 F. Supp. 2d 8, 28 (D.D.C. 2012). District precedent establishes a connection between a detainee’s health and his right to representation. “[A]ccess to counsel by Petitioners is illusory unless counsel have sufficient access to their clients to be informed about their current physical condition.” *Al-Joudi v. Bush*, 406 F. Supp. 2d 13, 22 (D.D.C. 2005). If a detainee’s “right to present his case with the assistance of counsel is to have any meaning, his counsel must be able to” assess the degree of his client’s affliction.

Husayn v. Gates, 588 F. Supp. 2d 7, 11 (D.D.C. 2008). The *Al-Joudi* court granted narrow relief to petitioners whose counsel had been denied information regarding their clients' medical status. *Al-Joudi*, 406 F. Supp. 2d at 16, 23. Petitioner in *Husayn* had suffered over 120 seizures in two years and exhibited psychotic behavior that raised questions of competency. *Husayn*, 588 F. Supp. 2d at 9, 11. These cases affirm the general principle that detainees' medical status is relevant to their counsel's ability to represent them effectively, and that health issues may warrant judicial intervention. They do not, however, establish a precedent that any ailing detainee is entitled to a second opinion.

Adequate medical care alone will not defeat a detainee's petition. If Al Hajj's health issues have left his counsel without access to their client and uninformed as to his condition, relief may be appropriate. This is a high hurdle, and Al Hajj does not clear it. Al Hajj skips meals voluntarily, seeks medical aid inconsistently, and then complains he is exhausted and malnourished. Pet'r's Emerg. Mot. 4, ECF No. 1880. His motions do not describe a petitioner kept from counsel nor a counsel left in the dark. Rather, Al Hajj's motions indicate that his counsel is relatively well-informed as to his health issues. The declaration of Guantanamo's Senior Medical Officer, meanwhile, describes thorough procedures and specific attention to Al Hajj. SMO Decl., ECF No. 1930-1. A board-certified gastroenterologist evaluated Al Hajj's chronic abdominal pain, and Al Hajj has complied with the recommended treatment. *Id.* ¶ 27. A board-certified urologist evaluated Al Hajj's urinary tract symptoms, and Al Hajj has complied with the recommended treatment. *Id.* In 2019 alone Al Hajj voluntarily underwent hernia surgery and has requested an appointment with an optometrist for new reading glasses. *Id.* ¶¶ 24, 28. He is receiving adequate medical care and is free to relay his ailments and treatments to his counsel.

Al Hajj's right to judicial access is substantial and intact. The Court is satisfied that his physical and mental health are being closely monitored by Guantanamo medical personnel, and that his access to counsel is secure. Good-faith concerns untethered to applicable law are not actionable. Al Hajj's motion for independent medical evaluation and medical records is **DENIED.**

SIGNED this 10th day of September, 2019.



Royce C. Lamberth

United States District Judge