

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**AZAEI DYTHIAN PERALES,**  
*Plaintiff-Appellant,*

v.

**UNITED STATES,**  
*Defendant-Appellee.*

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2010-5145

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Appeal from the United States Court of Federal  
Claims in case no. 10-CV-460, Judge Marian Blank Horn.

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**ON MOTION**

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Before LINN, DYK, and PROST *Circuit Judges.*

PER CURIAM.

**O R D E R**

The United States moves for summary affirmance of the July 20, 2010 order of the United States Court of Federal Claims dismissing Azael Dythian Perales' petition for writ of habeas corpus for lack of jurisdiction.

Perales responds and separately moves for leave to proceed in forma pauperis.

Perales filed a document titled "Petition for Writ of Habeas Corpus. The Court of Federal Claims dismissed Perales' petition, determining that it did not have subject matter jurisdiction to grant a petition for a writ of habeas corpus. This appeal followed.

Summary affirmance of a case is appropriate "when the position of one party is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists.") *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994). Here, the Court of Federal Claims correctly concluded that it lacked jurisdiction over Perales' petition. See *Ledford v. United States*, 297 F.3d 1378, 1381 (Fed. Cir. 2002) ("[T]he habeas statute does not list the Court of Federal Claims among those courts empowered to grant a writ of habeas corpus, and the trial court therefore is without power to entertain [a] petition.")

Because the Court of Federal Claims correctly held that the petition was not within its jurisdiction, we conclude that no substantial question regarding the outcome of this appeal exists; therefore, summary affirmance is appropriate.

Accordingly,

IT IS ORDERED THAT:

- (1) The United States' motion for summary affirmance is granted.
- (2) Each side shall bear its own costs.
- (3) Perales' motion for leave to proceed in forma pauperis is denied as moot.

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PERALES v. US

FOR THE COURT

OCT 26 2010

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Azael Dythian Perales  
James R. Sweet, Esq.

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**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

OCT 26 2010

**JAN HORBALY**  
**CLERK**