

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

OLAKUNLE A. OSHODI,	)	
	)	
Petitioner,	)	
	)	2:07-cv-1271 JWS
vs.	)	
	)	ORDER FROM CHAMBERS
BRUNO STOLC, <i>et al.</i> ,	)	
	)	[Re: Motion at docket 18;
Respondents.	)	Report at docket 22]
_____	)	

**I. MATTER PRESENTED**

At docket 1, petitioner Olakunle A. Oshodi sought release from immigration custody via a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Respondents filed a motion to dismiss at docket 18. The matter was referred to Magistrate Judge David K. Duncan. Following briefing, Judge Duncan filed a report at docket 22 in which he recommends that the motion at docket 18 be granted and the petition at docket 1 be denied. Petitioner filed an objection at docket 25.

**II. STANDARD OF REVIEW**

The district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.”<sup>1</sup> When reviewing a magistrate judge’s report and recommendation in a case such as this one, the district court conducts *de*

---

<sup>1</sup>28 U.S.C. § 636(b)(1).

*novo* review of all conclusions of law,<sup>2</sup> and any findings of fact to which objections have been made.<sup>3</sup> Uncontested findings of fact are reviewed for clear error.<sup>4</sup>

### **III. DISCUSSION**

Oshodi's petition asks for a release from immigration custody pending completion of his appeal of an order that he be removed to his native country, Nigeria. In the motion at docket 18, the government contends that the petition is moot, because Oshodi has been offered a bond hearing, but has declined to participate. Having reviewed the file, including the objection, and applied the standard of review articulated above, this court concludes that the magistrate judge has correctly found the facts and applied the law. This court adopts his recommended findings of fact and conclusions of law. The bond hearing offered to Oshodi affords him as much remedy as he could obtain from this court were his petition granted. This renders the petition moot.

### **IV. CONCLUSION**

For the reasons above, and based on the adoption of the findings and conclusions recommended by the magistrate judge, the motion at docket 18 is

---

<sup>2</sup>*Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989), *overruled on other grounds by Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996).

<sup>3</sup>28 U.S.C. § 636(b)(1).

<sup>4</sup>*Taberer v. Armstrong World Industries, Inc.*, 954 F.2d 888, 906 (3d Cir. 1992).

**GRANTED**, and the petition at docket 1 is **DENIED** as moot. The Clerk of Court will please enter judgment against petitioner and close this case.

DATED this 4th day of December 2009.

/s/ JOHN W. SEDWICK  
UNITED STATES DISTRICT JUDGE