

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

FIRDAVS RADZHABOV,

Petitioner,

v.

Case No: 2:18-cv-119-FtM-38CM

UNITED STATES OF AMERICA, U.S.
DEPARTMENT OF JUSTICE, U.S.
DEPARTMENT OF HOMELAND
SECURITY, MARC J MOORE, JUAN
ACOSTA, JEFFERSON B.
SESSIONS, KIRSTJEN M.
NIELSEN, THOMAS D. HOMAN and
DAVID HARDIN,

Respondents.

OPINION AND ORDER¹

This matter comes before the Court upon periodic review of the file. Petitioner, a citizen of Tajikistan, initiated this action by filing a pleading entitled “Complaint for Declaratory, Injunctive and Monetary Relief” ([Doc. 1](#)), which was construed as a petition for writ of habeas corpus by the U.S. District Court for the District of Columbia and transferred to this Court on February 22, 2018. [Doc. 2](#) and [Doc. 3](#). Upon review, this Court construed the pleading as challenging both Petitioner’s continued detention by

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Immigration and Customs Enforcement (ICE) as well as seeking monetary and injunctive relief for alleged *Bivens* violations.² Consequently, on April 23, 2018, the Court directed Petitioner to file an amended petition on the form designated for use in Section 2241 proceedings in the instant case, to the extent Petitioner wished to challenge his continued detention. See [Doc. 7](#). Petitioner was directed to file his amended habeas petition within twenty-one (21) days of the Court's April 23, 2018, Order. *Id.* at 2, ¶2. Petitioner was cautioned that his failure to comply with the Court's April 23, 2018, Order would result in the dismissal of this action without further notice. *Id.* The Court further provided Petitioner with a civil rights complaint form to the extent that he wished to pursue monetary or injunctive relief in a separate action stemming from the alleged *Bivens'* violations raised in his pleading. *Id.* at 2, ¶3.

On May 7, 2018, the Court's April 23, 2018 Order was returned to the Court as "undeliverable." On May 9, 2018, after independently locating Petitioner's current address, the Clerk forwarded a copy of the April 23, 2018 Order to Petitioner.³ The April 23, 2018, Order resent to Petitioner, on May 9, 2018, has not been returned to the Court. As of the date on this Order, Petitioner has not complied with the Court's April 23, 2018, Order or explained his inability to comply and the time for doing so has expired.

ACCORDINGLY, it is hereby

²In [Bivens v. Six Unknown Agents of Federal Bureau of Narcotics, 403 U.S. 388 \(1971\)](#), the Supreme Court recognized an implied cause of action for damages against federal officers to redress a constitutional violation.

³ The Court, in its February 22, 2108, Standing Order, previously notified Petitioner that he was required to advise the Clerk of any change of address. See [Doc. 5 at 3, ¶6](#). The Standing Order apparently was delivered to Petitioner as it was not returned as "undeliverable." As of the date of this Order, Petitioner has not yet notified the Clerk of his change of address.

ORDERED:

1. This case is **DISMISSED without prejudice** for Petitioner's failure to comply with the Court's April 23, 2018, Order. Should Petitioner wish to challenge his continued detention, he must file a new petition accompanied by the \$5.00 filing fee or a motion to proceed as a pauper. Petitioner shall not use the instant case number on any new filing.
2. The **Clerk of Court** is directed to terminate any pending motions, close this case, and enter judgment accordingly.
3. The **Clerk** is further directed to provide Petitioner with a blank [28 U.S.C. § 2241](#) habeas corpus form and affidavit of indecency form with this Order.

DONE and **ORDERED** in Fort Myers, Florida this 11th day of June, 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

SA: FTMP-1
Copies: All Parties of Record