

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KIONE DAVIS,
ALIEN # A97-957-165,

Petitioner,

vs.

Case No. 4:09cv35-MP/WCS

MICHAEL B. MUKASEY,
ATTORNEY GENERAL OF THE
UNITED STATES, et al.,

Respondents.

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ORDER and REPORT AND RECOMMENDATION

Petitioner, proceeding *pro se*, filed a petition seeking a writ of habeas corpus under § 2241 on January 29, 2009. Doc. 1. Petitioner alleged being a native of Antigua, and stated that Antigua refused to issue travel documents for him, that Respondents are unable to effect his removal, yet refuse to release him. *Id.*, at 2. Petitioner does not challenge the validity of the removal order, only his indefinite detention under Zadvydas v. Davis, 533 U.S. 678 (2001). *Id.* Service was directed on February 4, 2009, doc. 4, and Respondents filed a motion to dismiss, doc. 11, on March 12, 2009.

Respondents assert in the motion to dismiss that Petitioner was released from the custody of Immigration and Customs Enforcement (ICE) on February 19, 2009. Doc. 11 p. 1. Petitioner was released "since the government of Antigua declined to issue Petitioner travel documents." *Id.*, at 2; see exhibit 1. Therefore, because Petitioner has essentially been afforded the relief sought, release from detention, this § 2241 petition should now be dismissed as moot.

The motion to dismiss, doc. 11, contains a certificate of service which indicates the document was provided to Petitioner at his "forwarding address" which was attached to the motion to dismiss. Doc. 11. The Clerk of Court will be directed to forward this report and recommendation to Petitioner. However, it is noted that when service was directed on February 4, 2009, Petitioner was ordered to "file a notice of change of address with this Court should he be released from custody" Doc. 4, p. 3. Petitioner's failure to do so in the month since his release indicates that Petitioner has abandoned this litigation.

ORDER

Accordingly, it is **ORDERED** that the Clerk of Court shall forward this ORDER and REPORT AND RECOMMENDATION to Petitioner at 1615 Ferrier Drive, Titusville, Florida 32780.

REPORT AND RECOMMENDATION

In light of the uncontested assertion by Respondent, and the apparent abandonment of this case by Petitioner, it is respectfully **RECOMMENDED** that the

§ 2241 petition filed by Petitioner Kione Davis be **DISMISSED as moot** since it appears he has been released from detention.

IN CHAMBERS at Tallahassee, Florida, on March 16, 2009.

s/ William C. Sherrill, Jr.
WILLIAM C. SHERRILL, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

A party may file specific, written objections to the proposed findings and recommendations within 15 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within 10 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.