

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

**BERNARD MOIMEME,
ALIEN # A70-611-698,**

Petitioner,

vs.

Case No. 4:09cv43-RH/WCS

**ERIC H. HOLDER, JR.,
ATTORNEY GENERAL OF THE
UNITED STATES, et al.,**

Respondents.

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REPORT AND RECOMMENDATION

Petitioner, proceeding *pro se*, filed a petition seeking a writ of habeas corpus under § 2241 on February 3, 2009. Doc. 1. Petitioner alleged he is a native of the Bahamas, had been held in detention for more than six months,¹ and claimed that Respondents are unable to effect his removal, yet refuse to release him. *Id.*, at 2. Petitioner challenges only an alleged period of "indefinite detention" under Zadvydas v. Davis, 533 U.S. 678 (2001). *Id.*, at 1-2.

¹ Petitioner entered immigration custody on March 4, 2008, but did not receive a final order of removal, however, until June 25, 2008. Doc. 1.

Service of the petition was directed and Respondents filed a motion to dismiss the petition on April 17, 2009. Doc. 12. Respondents assert that Petitioner "was removed from the United States to Haiti on April 15, 2009, and, thus, this case is moot." Doc. 12, p. 1; see exhibit 1. Therefore, because Petitioner is no longer in custody, no order from the court requiring his release would have any effect. *Id.*, at 2. Accordingly, Respondents request this § 2241 petition be dismissed as moot. *Id.*

The motion to dismiss, doc. 12, contains a certificate of service which indicates the document was provided to Petitioner at his "last known address" which was the Hernando County Jail. Doc. 12, p. 3. However, Petitioner filed a notice of change of address showing he was transferred to that facility on April 1st. Doc. 10. Thereafter, he filed another change of address on April 15th indicating he was in the Perry County Correctional Center in Union Town, Alabama. Doc. 11.

This report and recommendation will be mailed to Petitioner at that address of record. See doc. 11. It is accepted that Respondents' motion states the facts as known at the time. As a matter of caution, however, this report and recommendation is also being sent to Petitioner at that address. Petitioner shall have a fifteen day period of time in which to file any opposition to this report and recommendation, if this document even reaches him. If nothing is received by the deadline provided, this cause should be summarily dismissed.

RECOMMENDATION

In light of the assertion by Respondents, it is respectfully **RECOMMENDED** that the § 2241 petition filed by Petitioner **Bernard Moimeme** be **DISMISSED as moot**

since it appears he has been released from detention and was removed from the United States on April 15, 2009.

IN CHAMBERS at Tallahassee, Florida, on April 21, 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.