

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

MARCOS ARMERO,  
ALIEN # 022-761-437,

Petitioner,

vs.

Case No. 4:09cv52-SPM/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 9, 2009. Doc. 1. Petitioner simultaneously paid the filing fee. Petitioner alleged being a native of Cuba, and stated that Cuba 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 26, 2009, doc. 3, and Respondents filed a motion to dismiss, doc. 9, 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 5, 2009. Doc.

9, p. 1. Petitioner was released "since the government of Cuba 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. 9, contains a certificate of service which indicates the document was provided to Petitioner at his "last known address" which was the Wakulla County Jail. That facility will not forward mail to Petitioner since he has been released. That fact is made clear in the mail return already received as Petitioner's copy of the order directing service has been returned marked, "No Longer here." Doc. 7. Nevertheless, although this order and report and recommendation will be sent there as well, there is no case or controversy now existing and this case should be dismissed.

In light of the uncontested assertion by Respondent, it is respectfully **RECOMMENDED** that the § 2241 petition filed by Petitioner Marcos Armero 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.**