

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KUSSAI J. ISTIFAN,

Petitioner,

v.

Case No. 16-11048

U.S. ATTORNEY GENERAL, et al.,

Respondent.

**OPINION AND ORDER GRANTING PETITIONER'S MOTION TO WITHDRAW
PETITION FOR HABEAS CORPUS**

Petitioner Kussai Istifan is an alien who filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, requesting that the court order Respondents to release him from a GPS ankle bracelet and excuse him from ISAP reporting. (Dkt. #1.)

Currently before the court is Petitioner's Consent Motion to Withdraw Petition for Writ of Habeas Corpus Without Prejudice. (Dkt. #18.) Respondents dispute that concurrence was sought before Petitioner filed his motion but express agreement with the requested relief. (Dkt. #19.) They also indicate that Petitioner has since been removed from ISAP reporting and curfew but remains under GPS monitoring. (*Id.*)

Petitioner's motion requests that the court only dismiss his habeas petition but allow him to proceed under his civil claims. The original Petition for Writ of Habeas Corpus was filed on March 21, 2016 along with an application to proceed *in forma pauperis*. (Dkts. ##1, 2.) This court granted this request. (Dkt. 5.) On May 10, 2016 Petitioner sent a letter to the Clerk of the Court purporting to add additional claims to his petition. (Dkt. #14.) Presumably this is the source of the claims that Petitioner does not

want the court to dismiss along with his habeas petition. However, this letter was sent more than twenty-one days after the original petition was filed, and at no point has Petitioner sought leave to amend his petition. See Fed. R. Civ. P. 15. To the extent that Petitioner's letter can itself be construed as a motion requesting leave to amend his petition, it would be denied as it does not provide any argument for why leave to amend should be granted. Therefore, the only claims properly before this court are those contained in the original habeas petition. Since all parties agree that these claims should be dismissed without prejudice, the court shall grant this relief.

Accordingly, IT IS SO ORDERED that Petitioner's Consent Motion to Withdraw Petition for Writ of Habeas Corpus is GRANTED and this case is dismissed in its entirety.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 31, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 31, 2016, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522