

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

KISHEPELE YANNICK YUMA,

Petitioner,

vs.

ERIC HOLDER, Attorney General,  
United States, in his official Capacity,  
JANET NAPOLITANO, Secretary,  
Department of Homeland Security, in  
her official Capacity, GREG JENSEN,  
Immigration and Customs  
Enforcement, in his official Capacity,  
and MARK FOXALL, Custodian of  
Petitioner, in his official Capacity,

Respondents.

8:12-CV-102

ORDER

This matter is before the Court on the Motion for Leave to Amend Petition and to Add Additional Party (filing [3](#)) filed by Petitioner Kishepele Yannick Yuma.

Petitioner is a native and citizen of Congo admitted to the United States of America as an Asylee in 2002. (Filing [3-1](#), ¶ 1.) He is currently in custody of Immigration and Customs Enforcement (ICE) at the Douglas County Jail in Omaha, Nebraska. (*Id.*) Petitioner previously pled no contest to criminal offenses in Nebraska state court. (*Id.* at ¶¶ 2, 5, 23–25.) As a result of this plea, ICE has initiated proceedings to remove Petitioner. (*Id.* at ¶ 3–4.) Petitioner is currently seeking leave to withdraw his previously entered plea of no contest in the District Court of Lancaster County, Nebraska (before the Hon. Stephanie F. Stacy). (*Id.* at ¶ 5–12.)

The Court conferred with parties' counsel on March 16, 2012. At this conference, counsel for Petitioner explained that he has filed the present case before this Court in an attempt to ensure that if his present action pending in Lancaster County District Court is dismissed for want of jurisdiction, he will have preserved access to a federal forum in which to collaterally attack

Petitioner's no-contest plea.<sup>1</sup> Laurie Barrett, Assistant United States Attorney, informed the Court that ICE will not take any action to remove Plaintiff from the country while any case is pending before this Court.

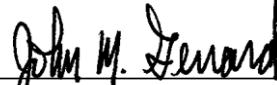
Upon good cause shown, the Court will grant Petitioner's Motion for Leave to Amend Petition and to Add Additional Party (filing [3](#)). At the conference, the parties further agreed that Respondents shall have sixty (60) days, from the date of service of Petitioner's Amended Petition, to respond to Petitioner's Amended Petition. Accordingly,

IT IS ORDERED:

1. Petitioner Kishepele Yannick Yuma's Motion for Leave to Amend Petition and to Add Additional Party (filing [3](#)) is granted;
2. Once the Amended Petition is filed, Jon Bruning, Attorney General of the State of Nebraska, will be added to this case as a named party respondent;
3. In addition to serving all respondents with a copy of his Amended Petition, Petitioner shall serve Respondent Attorney General Bruning with a copy of this Order; and
3. All Respondents will have sixty (60) days from the date of service of Petitioner's Amended Petition in which to respond.

Dated this 16th day of March, 2012.

BY THE COURT:

  
John M. Gerrard  
United States District Judge

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<sup>1</sup> The Court expresses no view regarding the underlying merits of this cause.