NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROGER O. PUSEY,	:	Hon. Faith S. Hochberg
Petitioner,	:	Civil No. 14-1414 (FSH)
v.	:	**MEMORANDUM OPINION**
OSCAR AVILES,	:	Date: June 10, 2014
Respondent.	:	

HOCHBERG, District Judge:

This matter is before the Court upon Petitioner's writ of habeas corpus filed pursuant to 28 U.S.C. § 2241. The Petition will be denied.

IT APPEARING THAT:

1. Petitioner previously filed three petitions pursuant to 28 U.S.C. § 2241 concerning his ongoing detention while in removal proceedings. *See Pusey v. Aviles*, 13-3416, 13-4366, 13-6973. Cases 13-4366 and 13-6973 were dismissed as duplicative of 13-3416. Case 13-3416 was denied on January 29, 2014. Thereafter, Petitioner filed the instant Petition.
2. The currently pending Petitioner concerns the same issues as presented in 13-3416. It does not appear that Petitioner's detention status has changed.
3. As stated in this Court's earlier Opinion entered in the matter of *Pusey v. Aviles*, 13-3416, Petitioner's challenge to his ongoing detention, because he was not taken into custody immediately upon completion of his criminal sentence for a removable offense, must fail. The Third Circuit Court of Appeals held in *Sylvain v. Attorney Gen. of U.S.*, 714 F.3d 150

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(3d Cir. 2013) that "[e]ven if [8 U.S.C. § 1226(c)] calls for detention 'when the alien is released,' and even if 'when' implies something less than four years, nothing in the statute suggests that immigration officials lose authority if they delay. *See Sylvain*, 714 F.3d at 157.

4. Furthermore, also as addressed in the earlier Opinion, Petitioner has not shown that he has been subjected to unreasonably prolonged detention in violation of the Due Process Clause under *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011) (finding that Diop's nearly three-year detention was unconstitutionally unreasonable and, therefore, a violation of due process).

5. For the foregoing reasons, the Court denies Petitioner's application for habeas relief pursuant to 28 U.S.C. § 2241. An appropriate Order follows.

s/ Faith S. Hochberg
Hon. Faith S. Hochberg, U.S.D.J.