

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DOC #:
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WONG SILK LEUNG, :
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Plaintiff, :
:
v. :
DEPARTMENT OF HOMELAND SECURITY, I.C.E. :
:
Defendant. :
-----X

09 Cv. 2528 (BSJ)
Order

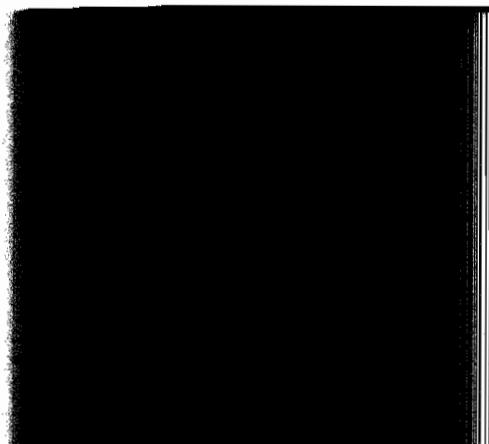
BARBARA S. JONES
UNITED STATES DISTRICT JUDGE

In this action, Petitioner, Wong Silk Leung, who is subject to a final order of removal, filed a habeas petition on March 19, 2009, seeking release from the custody of the Immigration and Customs Enforcement ("ICE"). More specifically, Petitioner has challenged only the lawfulness of his administrative detention because, for more than six months, ICE was unable to obtain the travel documents necessary to remove him to China. (Petition at 1.) However, the government has submitted proof indicating that the day after this petition was docketed - on March 20, 2009 - ICE removed Petitioner to China.

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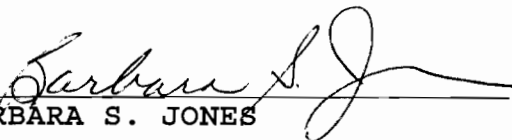
In light of the government's submission that the ICE removed Petitioner to China, Petitioner's claim for habeas relief is DISMISSED as moot. See, e.g., Abadala v. INS, 488 F.3d 1061, 1064-65 (9th Cir. 2007) (petitioner moot where petitioner "challenged only the length of his detention at the INS



facility" and was thereafter deported); McClatchie v. Sherriff, Clinton Country Jail, No. 9:07-CV-918, 2009 WL 511376, at *2 (N.D.N.Y. Feb. 27, 2009) ("Here, by his habeas corpus petition, McClatchie sought release from custody. He thereafter agreed to his removal and deportation from the United States. The petition therefore became moot"); see also Pierrilus v. ICE, 293 Fed. Appx. 78, 79 (2d Cir. Sept. 18, 2008) ("Petitioner's challenge to the length of his detention is moot as a result of his release from DHS custody."); Syavong v. McElroy, No. 00 Civ. 0922 (WHP) (FM), 2003 WL 470576, at *3 (S.D.N.Y. Jan. 9, 2003) ("After his petition was filed, Sayavong was released from ICE custody pursuant to an Order of Supervision... [T]he only relief sought by Sayavong's petition seeking release from (INS) custody is moot when petitioner is no longer in [INS] custody.").

Accordingly, the Clerk of the Court is directed to close this case.

SO ORDERED:



BARBARA S. JONES
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
September 15, 2009