

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



-PS/CD-O-

JUAN DAVID LONDONO-CALLE,

Petitioner,

-v-

DECISION AND ORDER
11-CV-6439Fe

ERIC H. HOLDER, Attorney General of the United States; MICHAEL PHILIPS, Field Office Director for Detention and Removal, Buffalo Field Office, Bureau of Immigration and Customs Enforcement, Department of Homeland Security; and MARTIN HERON, Facility Director, Buffalo Federal Detention Facility,

Respondents.

Petitioner Juan David Londono-Calle, who is currently detained at Buffalo Federal Detention Facility, seeks relief pursuant to 28 U.S.C. § 2241 as more fully set forth in the petition. Petitioner has paid the \$ 5.00 filing fee.

Petitioner has a criminal complaint pending against him in this Court, Case Number 10-CR-319A, by which he is detained in federal custody awaiting trial. Further, he is represented by counsel in that matter. The petition for writ of habeas corpus, Docket No. 1, lists the criminal case number in the caption in this action. Petitioner does not allege that he being held in federal detention by any legal process other than the detainer in his criminal case.¹ Petitioner also is not challenging the conditions of his confinement.

¹ Petitioner states that he is a citizen of Canada and a native of Columbia, but does not state he is being held in custody by virtue of any immigration proceedings.

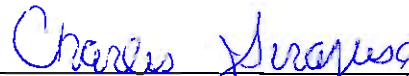
The content of the habeas petition is primarily related to discovery and pretrial matters in the pending criminal case. For example, a section of the petition is titled "BILL OF PARTICULARS AND DISCOVERY" and states petitioner's position on these matters in the criminal case. Petitioner also requests relief directly related to the pending criminal case including issues of admissibility of evidence, leave to file additional motions, dismissal of various counts of the criminal indictment, pretrial disclosure of evidence, disclosure of Brady material, and ultimately his release from custody.

Petitioner is detained as a result of pending criminal proceedings and he is seeking relief related to the process of those proceedings. Any such requests for relief should be made, through his attorney, in the criminal matter. A proceeding under 28 U.S.C. § 2241 is not the proper action for the relief petitioner is seeking. See *Morrow v. Terrell*, 715 F.Supp.2d 479, 480 (S.D.N.Y. 2010).

The instant petition for writ of habeas corpus is dismissed without prejudice. The Clerk of the Court is directed to close this action.

SO ORDERED.

Dated: SEPT 30, 2011
Rochester, New York



CHARLES J. SIRAGUSA
United States District Judge