

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LUDERS LAFONTANT,

Petitioner,

DECISION AND ORDER

19-CV-6895L

v.

WILLIAM P. BARR, in his official capacity as
Attorney General, U.S. Department of Justice, et al.,

Respondent.

Petitioner Luders Lafontant (“Lafontant”) filed a Petition for Habeas Corpus relief on December 10, 2019. Lafontant has been ordered removed to Haiti by an Immigration Judge and is detained pending removal. Lafontant has appealed that removal order to the Bureau of Immigration Appeals and that remains pending. Lafontant now seeks release from custody.

Lafontant has been detained during immigration proceedings pursuant to 8 U.S.C. § 1226(c) on the grounds that he had previous New York State Court convictions involving moral turpitude. By statute, such a person is not eligible for release on bond pending completion of immigration proceedings.

In his habeas corpus Petition, Lafontant challenges that statute on constitutional grounds, claiming that the determination of what constitutes a crime of “moral turpitude” is unconstitutionally vague. Respondents have filed an Answer and Response to the Petition and that remains pending.

The matter now before the Court is Lafontant’s emergency motion for release (Dkt. #10) filed April 16, 2020. Respondents have filed a Memorandum in opposition (Dkt. #12). The basis for Lafontant’s motion relates to the COVID-19 virus pandemic which has swept this country,

especially in New York, and the world. Through counsel, Lafontant contends that he tested positive for the COVID-19 virus at or sometime before filing of the emergency motion. In his motion, Lafontant requests this Court to order him released to hospital or his residence, or, in the alternative, to hold a hearing as to whether release on bond is appropriate.

The emergency motion (Dkt. #10) for release on bond is DENIED. First of all, although respondents do not dispute that Lafontant may have tested positive for the virus, time has passed and there is no proof before the Court that he continues to suffer from that disease. It appears that whatever symptoms he had, were treated at the Buffalo Federal Detention Facility (“BFDF”). Although apparently other inmates have also contracted the disease, there is no evidence that the BFDF was unable to adequately treat those detainees. There is a medical staff at the facility, which is in daily contact with those detained there. Furthermore, should matters become grave, the facility can transfer detainees to one of several local hospitals in the area.

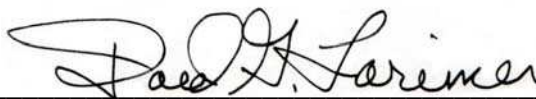
Furthermore, there is no evidence before the Court that Lafontant is a particularly vulnerable individual because of age, or other existing medical conditions.

By statute, Lafontant has been deemed ineligible for release because of his prior criminal conduct. Simply because he had at some time previously contracted COVID-19, is not such an extraordinary or compelling reason for this Court to order release in the face of the statute. It does appear that the BFDF has been able to provide adequate medical care to Lafontant and others inflicted with the virus and that Lafontant’s circumstances are not so unique or serious to warrant the relief requested.

CONCLUSION

Petitioner Luders Lafontant's emergency motion for release (Dkt. #10) is in all respects DENIED.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer". The signature is written in a cursive style with a large, stylized initial "D".

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
May 21, 2020.