

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

BRIAN ANTHONY DAVIS,  
Petitioner

v.

WARDEN, YORK COUNTY PRISON,  
ET AL.,  
Respondents

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CIVIL NO. 3:CV-16-1569  
  
(Judge Conaboy)

**FILED**  
**SCRANTON**  
  
APR 05 2017

MEMORANDUM  
Background

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DEPUTY CLERK

Brian Anthony Davis filed this pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 while detained by the Bureau of Immigration and Customs Enforcement (ICE) at the York County Prison, York, Pennsylvania,. The required filing fee has been paid. Named as Respondents are the Warden of the York County prison, ICE, and the Department of Homeland Security.

Davis identifies himself as being a native and citizen of Jamaica who entered the United States on or about May 3, 1982 as a lawful permanent resident. On October 21, 1993, he was convicted of drug related offenses following a jury trial in the United States District Court for the Northern District of Texas. He was sentenced to a term of life imprisonment. Thereafter, ICE lodged an immigration detainer against him.

On June 19, 2008, Petitioner's sentence was reduced to a thirty (30) year term. In May 2015, Davis's sentence was further

reduced to a twenty-seven (27) year term. On April 20, 2016, Petitioner was released from service of his federal criminal sentence and immediately taken into ICE custody. See Doc. 1, p. 25. An Immigration Judge ordered Davis' removal from the United States on or about May 10, 2016. See *id.* at p. 27. Petitioner has appealed that determination to the Board of Immigration Appeals (BIA). His BIA appeal was pending at the time the pending petition was filed.

Petitioner's pending habeas corpus action challenged the legality of his mandatory detention pending completion of his removal proceedings. As relief, Davis sought his release on reasonable bond or an immediate bond hearing.

#### **Discussion**

On March 10, 2017, Respondent filed a "Suggestion of Mootness." Doc. 15, p. 1. The notice states that Petitioner was removed from the United States to Jamaica on January 26, 2017. See id. at p. 2. Accordingly, Respondent contends that since Petitioner has been removed from the United States, dismissal on the basis of mootness is appropriate.

The case or controversy requirement of Article III, § 2 of the United States Constitution subsists through all stages of federal judicial proceedings. Parties must continue to have a "'personal stake in the outcome' of the lawsuit." Lewis v. Continental Bank Corp., 494 U.S. 472, 477-78 (1990); Preiser v. Newkirk, 422 U.S. 395, 401 (1975). In other words, throughout the course of the

action, the aggrieved party must suffer or be threatened with actual injury caused by the defendant. Lewis, 494 U.S. at 477.

The adjudicatory power of a federal court depends upon "the continuing existence of a live and acute controversy." Steffel v. Thompson, 415 U.S. 452, 459 (1974) (emphasis in original). "The rule in federal cases is that an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed." Id. at n.10 (citations omitted). "Past exposure to illegal conduct is insufficient to sustain a present case or controversy ... if unaccompanied by continuing, present adverse effects." Rosenberg v. Meese, 622 F. Supp. 1451, 1462 (S.D.N.Y. 1985) (citing O'Shea v. Littleton, 414 U.S. 488, 495-96 (1974)); see also Gaeta v. Gerlinski, Civil No. 3:CV-02-465, slip op. at p. 2 (M.D. Pa. May 17, 2002) (Vanaskie, C.J.).

As relief, Davis sought either the scheduling of a bond hearing or his immediate release from ICE detention. Since Petitioner has been removed from the United States and is no longer in ICE custody, under the principles set forth in Steffel, his instant petition is subject to dismissal as moot since it no longer presents an existing case or controversy. An appropriate Order will enter.

Richard P. Conaboy

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RICHARD P. CONABOY  
United States District Judge

DATED: APRIL 4, 2017