IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

USMAN SALL,	:	
	:	
Petitioner,	:	
	:	
v.	:	No.: 4:17-CV-1181
	:	
WARDEN CRAIG LOWE,	:	(Judge Brann)
	:	
Respondent.	:	

MEMORANDUM OPINION

OCTOBER 23, 2017

I.   BACKGROUND

Usman Sall, a detainee of the Department of Homeland Security,

Immigration and Customs Enforcement ('ICE") filed this petition for writ of

habeas corpus pursuant to 28 U.S.C. § 2241 while confined at the Pike County

Prison, Lords Valley, Pennsylvania. Named as Respondent is Warden Craig Lowe

of the Pike County Prison. Service of the petition was previously ordered.

Sall states that he is a native and citizen of Guinea who entered the United

States on December 24, 2016 as an immigrant without a valid entry document. He

requested asylum at the border.   An immigration judge denied Petitioner's request

for asylum and withholding of removal and also ordered his removal from the

United States on May 15, 2017. Sall indicates that he did not appeal the decision.

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According to the Petitioner, he had been detained by ICE for over seven (7) months as of the time this matter was filed. Sall alleges that ICE has been unable to timely deport him to Guinea because it has been unable to obtain appropriate travel documents. Petitioner's pending § 2241 petition challenges his indefinite detention pending removal under the standards announced in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

II. DISCUSSION

On June 6, 2017, Respondent filed a "Notice to Court of issuance of Travel document." Doc. 9, p. 1. The notice states that the government of Guinea issued a travel document for Sall's repatriation on July 19, 2017. A copy of the travel document which accompanies the notice provides that it has an expiration date of October 19, 2017. *See* Doc. 9-1. Accordingly, Respondent contends that since there is a significant likelihood of Petitioner's removal in the reasonably forseeable future, dismissal of Sall's pending action is appropriate.

Following receipt of the Respondent's notice, the Clerk of Court's Office contacted ICE and officials at the Pike County Prison and was informed that Sall was removed from the United States on October 11, 2017.

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 <u>continuing</u>

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, Sall sought his immediate release from ICE detention. *See* Doc. 1,

p. 10. Based upon the issuance of a travel document and the subsequent

representations by ICE and prison officials, Sall was removed from the United

Sates on October 11, 2017. *See* Doc. 9-1. Since Petitioner has been removed from

the United States, 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 follows.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge