

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                             |   |                          |
|-----------------------------|---|--------------------------|
| OTVINO BARTSCH,             | ) |                          |
|                             | ) |                          |
| Petitioner,                 | ) | Civil Action No. 08-4J   |
|                             | ) |                          |
| v.                          | ) |                          |
|                             | ) | Magistrate Judge Lenihan |
| UNITED STATES DEPARTMENT OF | ) |                          |
| JUSTICE,                    | ) |                          |
|                             | ) |                          |
| Respondent.                 | ) |                          |

**OPINION**

This is a federal habeas petition filed pursuant to the provisions of 28 U.S.C. § 2241 by Bartsch Otvino. Otvino is a federal prisoner incarcerated at the Moshannon Valley Correctional Center located in Philipsburg, Pennsylvania, serving a sentence of fifty-seven months incarceration for violation of immigration laws. Otvino is a Chilean national, and he complains that he was improperly denied a transfer to Chile under the "Transfer of Offenders To or From Foreign Countries Act" ("Act"), P.L. No. 95-144, 91 Stat. 1212, 18 U.S.C. §§ 4100, et seq.

Otvino's claim does not warrant relief. A transfer under the Act rests within the sole discretion of the United States Attorney General. 18 U.S.C. §4102(3). The Attorney General's decision is not subject to review. Bagguley v. Bush, 953 F.2d 660, 662 (D. C. Cir. 1991).

For all of the reasons stated above, **IT IS HEREBY ORDERED** that the Petition for Writ of Habeas Corpus filed by Bartsch Otvino is **DISMISSED**.<sup>1</sup>



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Lisa Pupo Lenihan  
United States Magistrate Judge

July 1, 2009

cc: OTVINO BARTSCH  
73645-053  
Moshannon Valley Correctional Center  
551 I Cornell Drive  
Philipsburg, PA 16866

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<sup>1</sup> Federal prisoner appeals from the denial of a § 2241 habeas corpus proceeding are not governed by the certificate of appealability requirement. United States v. Cepero, 224 F.3d 256, 264-65 (3d Cir. 2000); 28 U.S.C. § 2253(c)(1)(B). Hence, no recommendation is made in this respect.