

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

KIM HONG THI LE,

Petitioner,

v.

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CIVIL ACTION NO. 1:08CV212  
(Judge Keeley)

DEPARTMENT OF HOMELAND SECURITY,  
IMMIGRATION AND CUSTOMS ENFORCEMENT,  
OFFICE OF DETENTION AND REMOVAL OPERATIONS,  
and JAMES T. HAYES, JR.,

Respondents.

ORDER ADOPTING REPORT AND RECOMMENDATION

On December 2, 2008, pro se petitioner Kim Hong Thi Le ("Le"), filed an Application for Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging an immigration detainer lodged against her by the Bureau of Immigration and Customs Enforcement ("ICE") and challenging the Bureau of Prisons ("BOP") policy that prevents her from participating in reentry programs, such as placements at halfway houses. The Court referred this matter to United States Magistrate Judge John S. Kaul for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09.

Following a preliminary review, the Magistrate Judge directed the respondents to show cause as to why the petition should not be granted. On February 17, 2009, the respondents filed a motion to dismiss, asserting that Le could not challenge her ICE detainer

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**ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION**

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until she is in the custody of ICE authorities, and asserting that the BOP policy precluding halfway house placement of inmates with detainees is not unconstitutional.

On April 21, 2009, Magistrate Judge Kaul issued an Opinion and Report and Recommendation ("R&R") recommending that the respondents' motion to dismiss be granted, Le's motion under § 2241 be denied and the case be dismissed with prejudice. The R&R also specifically warned that failure to object to the recommendation within ten days of receipt of service would result in the waiver of any appellate rights on this issue. No objections were filed.<sup>1</sup>

Therefore, the Court **ADOPTS** the R&R in its entirety (dkt. no. 24), **GRANTS** the respondents' motion to dismiss (dkt. no. 17), **DENIES** Le's Application for Habeas Corpus under § 2241 (dkt. no. 1) and **ORDERS** the case **DISMISSED WITHOUT PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

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<sup>1</sup> The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION

The Clerk is directed to transmit a copy of this Order to counsel of record, and to mail a copy to the pro se petitioner, certified mail, return receipt requested.

Dated: May 13, 2009

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE