

Kaikai v. Holder

United States District Court for the District of Maryland
March 16, 2012, Decided; March 19, 2012, Filed
Civil Action No. JKB-11-2983

Reporter: 2012 U.S. Dist. LEXIS 36528

DAVID KAIKAI, #A078-777-684, Petitioner v. ERIC HOLDER, JR, Attorney General of the United States, et al., Respondents

[533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 \(2001\)](#).

¹ Petitioner is subject to a final order of removal and does not challenge that order in this petition. Counsel for respondent ² has filed a response and a motion to dismiss the petition. ECF No. 8.

Core Terms

detain, travel

Counsel: [*1] David KaiKai, Petitioner, Pro se, Cambridge, MD.

For Eric Holder, Jr, Attorney General of the United States, Michael Chertoff, Secretary of the Department of Homeland Security, Marion Dillis, United States I.C.E. Field Office Director for the Baltimore District of Maryland and Field Office, Steve Mills, Warden, Respondents: **Melanie L Glickson**, LEAD ATTORNEY, Maryland Office of the United States Attorney, Baltimore, MD.

Judges: James K. Bredar, United States District Judge.

Opinion by: James K. Bredar

Opinion

MEMORANDUM

Pending is Petitioner David Kaikai's [28 U.S.C. §2241](#) petition for writ of habeas corpus challenging his post-removal order detention under [Zadvydas v. Davis](#),

According to respondent, on December 12, [*3] 2011, Immigration and Customs Enforcement ("ICE") authorities obtained travel arrangements to effect petitioner's removal from the United States during the week of January 8, 2012. Ex. C. On December 29, 2011, the Embassy of Sierra Leone issued an emergency travel certificate for Kaikai to return to Sierra Leone. Exh. D. As such, respondents argue petitioner cannot meet his burden to show there is no significant likelihood of removal in the reasonably foreseeable future. See [Zadvydas, 533 U.S. at 700](#). In light of this information, it appears that Petitioner's removal habeas challenge to his post-order detention under [§ 1231\(a\)\(6\)](#) and [Zadvydas](#) have been rendered moot. Accordingly, this case shall be dismissed without prejudice. Respondent shall file a status report with documentation within twenty-eight days to inform the court whether petitioner's departure from the United States has been effectuated. A separate order follows.

DATE: March 16, 2012.

/s/ James K. Bredar

United States District Judge

¹ David Kaikai is a native and citizen of Sierra Leone who was admitted into the United States on or about July 7, 2000 as a refugee. See Petition, at ¶ 5; Exh. A (Notice to Appear in Removal Proceedings). On August 14, 2009, he was convicted of robbery in the Circuit Court for Prince George's County, Maryland and sentenced to a term [*2] of imprisonment of 15 years. See Petition, at ¶ 5; Exh. A. Based on his robbery conviction, an aggravated felony under section [237\(a\)\(2\)\(A\)\(iii\)](#) of the Immigration and Nationality Act ("Act"), Kaikai was charged as an alien subject to removal from the United States. Exh. A. Petitioner was taken into ICE custody on January 28, 2011. See Petition, at ¶ 5. Following a hearing before the Immigration Court on March 11, 2011, the Immigration Judge ordered Kaikai removed from the United States to Sierra Leone. See Exh. B (Order of the Immigration Judge of March 11, 2011). Petitioner waived his right to appeal (see Petition at ¶ 5) and his removal order became administratively final on March 11, 2011.

² The proper party respondent in this proceeding is petitioner's custodian. [28 U.S.C. § 2242](#); see also [28 U.S.C. § 2243](#) ("The writ, or order to show cause shall be directed to the person having custody of the person detained.") Petitioner filed this habeas petition while he was detained at the Dorchester County Detention Center. Consequently, the proper respondent is Steve Mills, who is the Warden at that facility. The Clerk shall amend the docket accordingly.