

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 10-10146-MLB
)	
MARQUEZ SOTO-HERACELO,)	
)	
Defendant.)	
_____)	

Memorandum and Order

Defendant Soto-Heracelo pleaded guilty to Illegal Reentry after Deportation for Aggravated Felony in violation of 8 U.S.C. § 1326(a) and (b)(2). On April 21, 2011, Soto-Heracelo was sentenced to 30 months imprisonment.

Soto-Heracelo filed a Motion for Early Deportation. (Doc. 31). However, this Court is without jurisdiction to order the Attorney General to deport Soto-Heracelo. The decision whether to deport an illegal alien prior to the termination of a prison sentence is a matter solely within the discretion of the Attorney General. 8 U.S.C. § 1231(a). Additionally, “[N]o cause or claim may be asserted under this paragraph against any official of the United States or of any State to compel the release, removal, or consideration for release or removal of any alien.” 8 U.S.C. § 1231(a)(4)(D).

IT IS THEREFORE ORDERED Soto-Heracelo’s Motion for Early Deportation (Doc. 31) be dismissed for lack of jurisdiction.

SO ORDERED this 6th day of February, 2012.

s/ Monti Belot
Monti L. Belot
United States District Judge