

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

OFELIO CUEVAS JUAREZ,

Petitioner,

v.

CASE NO. 12-3118-RDR

IMMIGRATION AND CUSTOMS ENFORCEMENT,

Respondent.

O R D E R

This matter comes before the court on a pro se pleading titled as a PETITION TO SET BOND PURSUANT TO 8 U.S.C. § 1226, submitted by a person confined in the Sedgwick County Detention Facility in Wichita, Kansas. Until his release from the custody of the Kansas Department of Corrections on April 27, 2012, petitioner was incarcerated for service of the sentences imposed in two drug possession cases, and was subject to an immigration hold. The court thus presumes petitioner is currently in the custody of the Immigration and Customs Enforcement (ICE), pending resolution of his removal status. Petitioner filed the instant action asking the court to set an appropriate bond for his release.

On the face of the sparse document before the court, it is clear that petitioner is not alleging his detention prior to an order of removal being entered violates his rights under the Constitution or laws of the United States. Instead, petitioner argues only for the court to set a bond for petitioner's release

pending an immigration judge's review of petitioner's status.<sup>1</sup> Pursuant to 8 U.S.C. § 1226(a) and (c), the decision to set bond or release an alien from immigration detention is within the discretion of the United States Attorney General. Finding no indication that petitioner has yet sought such relief in his pending immigration proceeding, and finding no due process concerns appear implicated by petitioner's brief ICE detention thus far, the court concludes the instant petition should be dismissed without prejudice.

IT IS THEREFORE ORDERED that the petition is dismissed without prejudice.

DATED: This 24th day of May 2012, at Topeka, Kansas.

s/ Richard D. Rogers  
RICHARD D. ROGERS  
United States District Judge

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<sup>1</sup>Petitioner cites an immigration case number (WIC1106000052) with no explanation as to the status of that proceeding.