

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DOUGLAS SUNDA,

Petitioner,

v.

CASE NO. 13-3174-RDR

ERIC HOLDER, et al.,

Respondents.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed pursuant to 28 U.S.C. § 2241. Petitioner, an immigration detainee, proceeds pro se.

Petitioner seeks a court order directing that he remain in the Rice County, Kansas, Jail until he is returned to Kenya. The petition states that he has been advised that travel documents are pending; however, he asks the court to direct respondents to show that Kenya has agreed to accept him and that the travel documents are available.

"Habeas corpus review is available under § 2241 if one is 'in custody in violation of the Constitution or laws or treaties of the United States.'" *McIntosh v. U.S. Parole Commission*, 115 F.3d 809, 811 (10th Cir. 1997) (quoting § 2241(c)(3)). In order to proceed in an action filed pursuant to § 2241, the petitioner must show that he has exhausted the available administrative remedies before commencing a petition in federal court. See *Soberanes v. Comfort*, 388 F.3d 1305, 1309 (10th Cir. 2004).

Here, petitioner does not challenge the validity of his detention, and he acknowledges that he did not pursue an appeal from

the final order of deportation. Accordingly, there is no constitutional challenge or alleged violation of federal law before the court, nor does it appear that petitioner has properly exhausted administrative remedies. The court has carefully examined the petition and finds no basis to conclude that petitioner's present detention is illegal or that a transfer to another location prior to his repatriation would violate the Constitution or federal law.

IT IS, THEREFORE, BY THE COURT ORDERED the petition for habeas corpus is denied.

A copy of this order shall be transmitted to petitioner.

IT IS SO ORDERED.

DATED: This 17th day of October, 2013, at Topeka, Kansas.

S/ Richard D. Rogers
RICHARD D. ROGERS
U.S. Senior District Judge