

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

SKENDER IBRAHIMI,	:	
Petitioner,	:	
	:	
v.	:	No. 3:03 CV 1432 (SRU)
	:	
IMMIGRATION & NATURALIZATION	:	
SERVICE,	:	
Respondent.	:	

RULING AND ORDER

In August 2003, Skender Ibrahim, a pro se prisoner in the custody of the Connecticut Department of Corrections, filed a petition for a writ of mandamus. The petition seeks an order requiring the respondent (1) to remove a detainer filed with the Department of Corrections and (2) to appoint a lawyer to advocate against Ibrahim's deportation.

Ibrahim is a native of Yugoslavia, who was admitted to the United States in June 1972 as a refugee. In September 1975, Ibrahim was granted lawful permanent resident status, effective as of June 20, 1972. Ibrahim has been married for sixteen years to a naturalized United States citizen and he has five children all born in this country.

Ibrahim has been convicted of several crimes. Most recently, he was sentenced to six months' incarceration following his conviction for possession of narcotics. The respondent placed a detainer on petitioner as a result of that conviction. Ibrahim has been unable to obtain counsel to represent him in connection with proceedings to remove him from this country.

A writ of mandamus is an extraordinary remedy that can be granted only when the petitioner shows "(1) a clear right . . . to the relief sought; (2) a plainly defined and peremptory duty on the [respondent's] part . . . to do the act in question; and (3) no other adequate remedy

available.” Anderson v. Bowen, 881 F.2d 1, 5 (2d Cir. 1989). Ibrahim’s petition must be denied because he does not enjoy a clear right to have his detainer lifted or to have counsel appointed to represent him during removal proceedings. Although the Second Circuit has recognized an alien’s right to counsel “at his own expense,” Montilla v. INS, 926 F.2d 162, 166 (2d Cir. 1991); Fuentes-Argueta v. INS, 101 F.3d 867, 873 (2d Cir. 1996), the court has found no authority requiring the appointment of counsel at public expense in removal proceedings.

There is no need to address the respondent’s alternative argument that, if the petition is treated as a petition for a writ of habeas corpus, the court lacks jurisdiction to consider a petition for a writ of habeas corpus because Ibrahim is not in the custody of the respondent. Ibrahim has made clear that he does not wish to have his petition treated as a petition for writ of habeas corpus. In the event that Ibrahim is now or later becomes subject to a final order of removal, however, he remains free to challenge that final order through the filing of a writ of habeas corpus.

For the foregoing reasons, the petition for a writ of mandamus is denied. The clerk is instructed to close this file.

It is so ordered.

Dated at Bridgeport, Connecticut this 6th day of January 2004.

/s/ Stefan R. Underhill
Stefan R. Underhill
United States District Judge