

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

HELEN KEHINDE UDUOJIE, :
Petitioner :
 :
 :
 v. : 3:02-CV-282 (EBB)
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 :
 IMMIGRATION AND NATURALIZATION :
 SERVICE, :
 Respondent :

RULING ON PETITION FOR HABEAS CORPUS

Plaintiff Helen Uduojie ("Uduojie") asks this Court to overturn the factual findings of the Immigration Judge and the Board of Immigration Appeals, which findings ordered her removal to her native country of Nigeria. Although she uses the term "constitutionality" in her moving papers, it is clear that she does not attack anything other than the factual underpinnings of the Immigration Judge's factual findings. Inasmuch as this Court has no jurisdiction to hear such a claim, the Petition is hereby DENIED and the stay of removal, issued by this Court on February 19, 2002, is hereby lifted. Finally, although Plaintiff requests that she be removed to Italy, rather than to her native Nigeria, the Italian government, upon request from the INS, has denied her return to that country and has stated that it will not issue a travel document for her return.

A petition for habeas corpus may be used to challenge incarceration or orders of deportation as being "in violation of

the Constitution or law or treaties of the United States." 28 U.S.C. § 2241(c)(3). Uduojie, however, does not raise a statutory or constitutional claim. She simply contends that the Immigration Judge and the Board of Immigration Appeals lacked adequate support for the decision made. This fact-intensive investigation is vastly different from what the habeas statute permits: review for only statutory or constitutional errors. Sol v. I.N.S., 274 F.3d 648, 651 (2d Cir. 2001), *petition for cert. filed*, No.01-8465 (Feb. 2, 2002)(factual determinations made by the Immigration Judge and the Board of Immigration Appeals not reviewable by way of way of habeas petition). See also, Liu v. I.N.S., 2002 WL 1174385 (2d Cir. June 4, 2002)(habeas statute only permits Court to hear claims of constitutional violations in the manner in which the INS proceedings were undertaken); Pickett v. I.N.S., No.3:02-CV-622 (D.Conn. June 19, 2002)(court lacks subject matter jurisdiction over mere contentions that the Immigration Judge and the Board of Immigration Appeals made factual errors).

As with these cases, Uduojie has failed to advance any colorable issue of pure law cognizable under Section 2241. While Congress has provided a process for assessing asylum, withholding of removal, and the Convention on Torture claims, Uduojie has not alleged error **in the process** employed by the INS in making its determination that she is not eligible for these forms of relief.

Rather than raising any colorable constitutional or legal error, Plaintiff requests that the Court issue a writ "vacating [her] final order of deportation and remanding her case to the Board of Immigration Appeals for asylum relief and [adjustment of status]." Such a writ would require exactly the type of fact-intensive review of the INS's determination that is clearly impermissible under the habeas statute. See So1, 274 F.3d at 651; *Pickett*, slip op. at 18. Accordingly, in agreement with these mandatory and persuasive precedents, the Court hereby dismisses this Petition for lack of subject matter jurisdiction.

Resultingly, the I.N.S. may deport Uduojie to Nigeria at its convenience.

SO ORDERED

ELLEN BREE BURNS

SENIOR UNITED STATES DISTRICT JUDGE

Dated at New Haven, Connecticut this ____ day of September, 2002.