

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

NUTH SINAL, :  
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 :  
 Plaintiff, :  
 :  
 V. : CASE NO. 3:03CV01196(RNC)  
 :  
 IMMIGRATION AND :  
 NATURALIZATION SERVICE, :  
 :  
 Respondent. :

RULING AND ORDER

Nuth Sinal, a citizen of Cambodia, is currently confined in Carl Robinson Correctional Institution in Enfield, Connecticut, awaiting removal from the United States under a final order of removal issued as a result of his conviction for an aggravated felony. Sinal brings this petition pro se seeking an order requiring the INS to transfer him from state to federal prison and to grant him a bond hearing. Sinal does not specify the legal basis for his petition. It could be construed as a petition for a writ of habeas corpus under 28 U.S.C. § 2241 or as a petition for relief in the nature of mandamus.

Since only the bond hearing request challenges Sinal's confinement, it is the only request that may be construed as a petition for habeas corpus. Because petitioner is subject to an administratively final order of removal, he is currently in custody pursuant to 8 U.S.C. § 1231(a)(6). Under that provision, petitioner

is not entitled to a bond hearing or other opportunities for mandatory release through a petition for habeas corpus until his 90-day removal period is over and he provides "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." Zadvydas v. Davis, 533 U.S. 678, 701 (2001). Petitioner has made no such showing.

Mandamus relief is available only when the applicant has a clear right to the relief sought, the respondent has a plainly defined duty to act, and no other remedy is available. Billiteri v. United States Bd. of Parole, 541 F.2d 938, 946 (2d Cir. 1976). The petitioner cannot show that he has a clear right to a bond hearing or to transfer to a federal prison. As noted above, a person held under 8 U.S.C. § 1231(a)(6) has no legal right to a bond hearing unless his removal period is over and his removal is not reasonably foreseeable. Congress has placed decisions about the place of confinement of persons subject to final removal orders within the discretion of the Attorney General, 8 U.S.C. § 1231(g)(1), and thus petitioner has no clear right to be held in federal prison.

Accordingly, the petition [Doc. #1] is hereby denied.

So ordered.

Dated at Hartford, Connecticut this \_\_\_\_ day of December 2003.

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Robert N. Chatigny  
United States District Judge