

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BHARATKUMAR G. THAKKER,	:	1:20-cv-480
<i>et al.</i> ,	:	
Petitioners-Plaintiffs,	:	
	:	
	:	
	:	
v.	:	Hon. John E. Jones III
	:	
	:	
CLAIR DOLL, <i>in his official capacity</i>	:	
<i>as Warden of York County Prison,</i>	:	
<i>et al.</i> ,	:	
Respondents-Defendants.	:	

ORDER

June 29, 2020

Pending before the Court is Respondents’ Motion to Dismiss or Strike Claims of Unlawful Final Order [of] Detention from the Amended Petition, (Doc. 140), filed on June 15, 2020. The Motion has been fully briefed by the parties, (Doc. 141, 158 and 162), and is ripe for our review. For the reasons that follow, the Motion shall be granted.

Because we write for the benefit of the parties, who are well familiar with the procedural morass of this complex case, we shall dispense with a detailed review. Simply put, in March of 2020 this matter was brought as an emergency habeas corpus petition seeking a temporary restraining order to have certain individuals in civil immigration detention released due to health concerns arising from their medical vulnerabilities to the COVID-19 pandemic. Thereafter, on

April 17, 2020, Petitioners filed an Amended Petition, ostensibly transforming the case into a putative class action seeking class-wide injunctive relief. Moreover, and relevantly, included in the Amended Petition as Count II are the individual claims of Petitioners Stubbs, Pratt, Ghaffar, Goloverya, Zhuiko, and D.F., alleging that their continued detention is unconstitutional under *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

In the instant Motion, Respondents seek to have these six individual *Zadvydas* claims stricken or dismissed from the Amended Petition without prejudice to them being refiled as individual habeas corpus petitions pursuant to 28 U.S.C. § 2241. Notably, a few days prior to the filing of the instant Motion, the parties had filed a stipulation seeking the Court to have the individual *Zadvydas* claims referred to one or several Magistrate Judges of this Court for resolution. This stipulation clearly reflects the parties' understanding that the substance of *Zadvydas* claims is separate and distinct from the conditions of confinement claims that are the main thrust of the Amended Petition.

While the Court could execute the parties' stipulation and send the six individual claims to one or several Magistrate Judges for review followed by a report and recommendation, we think it prudent for the management of this already unwieldy docket to dismiss the claims from the Amended Petition and direct that the six individuals bring six new, separate 28 U.S.C. § 2241 habeas

petitions setting for their *Zadvydas* claims. Petitioners' counsel should indicate that these new matters are related to the instant case so that they are assigned to the undersigned for resolution. It is our intention to serve judicial efficiency and economy by separating these unrelated and individualized claims from the instant complex putative class action.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Respondents' Motion to Dismiss or Strike Claims of Unlawful Final Order [of] Detention from the Amended Petition (Doc. 140) is **GRANTED** as follows:

a. The individual *Zadvydas* claims of Petitioners Stubbs, Pratt, Ghaffar, Goloverya, Zhuiko, and D.F. as set forth in Count II of the Amended Petition are **DISMISSED** without prejudice to these six individuals filing six separate 28 U.S.C. § 2241 habeas corpus petitions setting forth their individual *Zadvydas* claims.

b. Petitioners' counsel shall mark these new actions as related to the instant case and the Clerk of Court **SHALL ASSIGN** these anticipated new matters to the undersigned with a random co-assignment to a United States Magistrate Judge of this Court for each case.

s/ John E. Jones III
John E. Jones III, Chief Judge
United States District Court
Middle District of Pennsylvania