

(RNBx),CLOSED,CONSOLTR,DISCOVERY,REFVAC,RELATED-G
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Southern Division – Santa Ana)
CIVIL DOCKET FOR CASE #: 8:11-cv-01287-TJH-RNB

Frederick Ngaywa v. Eric H Holder et al
Assigned to: Judge Terry J. Hatter, Jr
Referred to: Magistrate Judge Robert N. Block
Lead case: [2:07-cv-03239-TJH-RNB](#)
Member case: [\(View Member Case\)](#)
Related Case: [2:12-cv-03280-TJH-FMO](#)
Cause: 28:2241 Petition for Writ of Habeas Corpus (federal)

Date Filed: 08/26/2011
Date Terminated: 04/07/2016
Jury Demand: None
Nature of Suit: 463 Habeas Corpus –
Alien Detainee
Jurisdiction: U.S. Government Defendant

Petitioner

Frederick Ngaywa

represented by **Frederick Ngaywa**
A 95 722 629
PO Box 6005
Adelanto, CA 92301
BK 2597017
PRO SE

V.

Respondent

Eric H Holder
Attorney General of the United States

represented by **Assistant US Attorney SA-CV**
AUSA – Office of US Attorney
Santa Ana Branch-Civil Div
411 West 4th Street Suite 8000
Santa Ana, CA 92701-4599
714-338-3500
Email: USACAC.SACivil@usdoj.gov
ATTORNEY TO BE NOTICED

Stacey Ilene Young
Department of Justice – Civil Division
Office of Immigration Litigation
450 5th Street NW Room 6018
Washington, DC 20044
202-305-7171
Email: stacey.young@usdoj.gov
ATTORNEY TO BE NOTICED

Respondent

Troy Lund
*Los Angeles Field Office Director,
Immigration and Customs Enforcement
(ICE)*

represented by **Assistant US Attorney SA-CV**
(See above for address)
ATTORNEY TO BE NOTICED

Stacey Ilene Young
(See above for address)
ATTORNEY TO BE NOTICED

Respondent

Janet Napolitano
Secretary of Homeland Security

represented by **Assistant US Attorney SA-CV**
(See above for address)
ATTORNEY TO BE NOTICED

Stacey Ilene Young
(See above for address)
ATTORNEY TO BE NOTICED

Respondent

Sandra Hutchens
Sheriff and Coroner of Orange County

represented by **Stacey Ilene Young**
(See above for address)
ATTORNEY TO BE NOTICED

Respondent

Charles Gilkey
Wardenm Adelanto Detention Facility

represented by **Stacey Ilene Young**
(See above for address)
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|-----------|---|
| 08/26/2011 | <u>1</u> | PETITION for Writ of Habeas Corpus by a Person In Federal Custody (28:2241). Case assigned to Judge Dale S. Fischer and referred to Magistrate Judge Fernando M. Olguin.(Filing fee \$5 Fee paid). Filed by Petitioner Frederick Ngaywa.(lwag) Modified on 9/7/2011 (mr). (Entered: 08/31/2011) |
| 08/26/2011 | <u>2</u> | NOTICE OF REFERENCE TO A U.S. MAGISTRATE JUDGE. Pursuant to the provisions of the Local Rules, the within action has been assigned to the calendar of Judge Dale S. Fischer and referred to Magistrate Judge Fernando M. Olguin to consider preliminary matters and conduct all further matters as appropriate. The Court must be notified within 15 days of any change of address. (lwag) (Entered: 08/31/2011) |
| 09/07/2011 | <u>3</u> | NOTICE OF DISCREPANCY AND ORDER: by Magistrate Judge Fernando M. Olguin, ORDERING Letter re: money due on H/C, SA CV 11-1287 DSF (FMO) submitted by Petitioner Frederick Ngaywa received on 9/6/11 is not to be filed but instead rejected. Denial based on: No copy provided for judge. Improper communication - no letters to the court per Local Rule 83-2.11. The filing fee has been paid; no further fees necessary. (mr) (Entered: 09/07/2011) |
| 09/08/2011 | <u>4</u> | FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS against Respondent Janet Napolitano, Troy Lund, Eric H. Holder amending Petition for Writ of Habeas Corpus (2241) <u>1</u> ,filed by petitioner Frederick Ngaywa. (mr) (Entered: 09/14/2011) |
| 09/08/2011 | <u>5</u> | MOTION for Appointment of Counsel filed by petitioner Frederick Ngaywa. (mr) (Entered: 09/14/2011) |
| 09/15/2011 | <u>6</u> | ORDER REQUIRING RETURN TO FIRST AMENDED PETITION <u>4</u> FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241) by Judge Fernando M. Olguin. Respondent shall file a Notice of Appearance no later than September 29, 2011. Respondent shall file a single Motion to Dismiss no later than thirty (30) days from the filing date of this Order. Respondent shall file a Return to the First Amended Petition no later than November 14, 2011. Petitioner shall file a Reply to the Return no later than January 13, 2012. (mr) (Entered: 09/15/2011) |
| 09/15/2011 | <u>7</u> | ORDER Re: MOTION FOR APPOINTMENT OF COUNSEL by Magistrate Judge Fernando M. Olguin: IT IS ORDERED THAT petitioner's "Motion for Appointment of Counsel; and Declaration in Support Thereof" (Document No. <u>5</u>) is denied without prejudice. Nothing in this Order is intended to preclude petitioner from retaining counsel on his own, at his own expense. (mr) (Entered: 09/15/2011) |
| 09/27/2011 | <u>8</u> | NOTICE of Appearance filed by attorney Stacey Ilene Young on behalf of Respondents Eric H Holder, Sandra Hutchens, Troy Lund, Janet Napolitano (Young, Stacey) (Entered: 09/27/2011) |
| 10/03/2011 | <u>9</u> | NOTICE of Change of address Changing address to P.O. Box 6005, Adelanto, CA 92301. Filed by Petitioner Frederick Ngaywa. (mr) (Entered: 10/03/2011) |
| 10/05/2011 | <u>10</u> | NOTICE OF DISCREPANCY AND ORDER: by Magistrate Judge Fernando M. Olguin, ORDERING Motion to Request Leave to Supplement Petition submitted by Petitioner Frederick Ngaywa received on 10/03/11 is not to be filed but instead rejected. Denial based on: No copy provided for judge. (mr) (Entered: 10/05/2011) |
| 10/18/2011 | <u>11</u> | NOTICE OF DISCREPANCY AND ORDER: by Magistrate Judge Fernando M. Olguin, ORDERING Motion to Request Leave to Supplement Petition submitted by |

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| | | Petitioner Frederick Ngaywa received on 10/14/11 is not to be filed but instead rejected. Denial based on: Failure to submit proposed amended petition per Local Rule 15. (mr) (Entered: 10/18/2011) |
| 10/18/2011 | <u>12</u> | NOTICE OF DISCREPANCY AND ORDER: by Magistrate Judge Fernando M. Olguin, ORDERING Motion to Substitute Custodian, Motion to Request Leave to Supplement Writ Of Habeas Corpus, Motion to Declare Transfer Erroneous submitted by Petitioner Frederick Ngaywa received on 10/14/11 is not to be filed but instead rejected. Denial based on: No copy provided for judge. (mr) (Entered: 10/18/2011) |
| 10/24/2011 | <u>13</u> | MOTION to Substitute Custodian filed by petitioner Frederick Ngaywa. (es) (Entered: 10/28/2011) |
| 10/28/2011 | <u>14</u> | MOTION to Forestall Transfer of Custody During Habeas Proceedings (Per FRAP Rule 23(a)) filed by petitioner Frederick Ngaywa. (es) (Entered: 10/31/2011) |
| 10/31/2011 | <u>15</u> | MINUTES (IN CHAMBERS): ORDER by Magistrate Judge Fernando M. Olguin: Having received and reviewed petitioner's "Motion to Substitute Custodian," (Motion) filed on October 24, 2011, IT IS ORDERED THAT Petitioner's Motion is granted. Accordingly, pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, the court hereby substitutes Charles Gilkey as the proper respondent in this matter. *See order for details* (es) (Entered: 10/31/2011) |
| 11/02/2011 | <u>16</u> | ORDER DENYING MOTION TO FORESTALL TRANSFER OF CUSTODY by Magistrate Judge Fernando M. Olguin. *See attached order for further details.* (es) Modified on 11/2/2011 (es). (Entered: 11/01/2011) |
| 11/14/2011 | <u>17</u> | EX PARTE APPLICATION for Extend Time to File Answer to 11/28/2011 filed by Respondents Charles Gilkey, Eric H Holder, Sandra Hutchens, Troy Lund, Janet Napolitano. (Attachments: # <u>1</u> Declaration, # <u>2</u> Proposed Order)(Young, Stacey) (Entered: 11/14/2011) |
| 11/15/2011 | <u>18</u> | NOTICE of Related Case(s) filed by Respondents Charles Gilkey, Eric H Holder, Sandra Hutchens, Troy Lund, Janet Napolitano. Related Case(s): 07-cv-3239 (Attachments: # <u>1</u> Exhibit Exhibit - 1, # <u>2</u> Exhibit Exhibit - 2, # <u>3</u> Exhibit Exhibit - 3)(Young, Stacey) (Entered: 11/15/2011) |
| 11/17/2011 | <u>19</u> | ORDER EXTENDING TIME FOR RESPONDENTS TO FILE THEIR RETURN TO PETITIONER'S FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS by Magistrate Judge Fernando M. Olguin: IT IS HEREBY ORDERED that the time for Respondents to file their return shall be extended to November 28, 2011. <u>17</u> Petitioner shall serve and file a single reply to the Return no later than January 13, 2012. (es) (Entered: 11/17/2011) |
| 11/28/2011 | <u>20</u> | ORDER TO REASSIGN CASE PURSUANT TO Section 5.4 of General Order 08-05 by Judge James V. Selna, Chair of the Case Management and Assignment Committee, all related Indefinite Detention cases are assigned to Judge Terry J. Hatter, Jr. for all further proceedings. The case number will now read as follows: SACV 11-01287 TJH(FMO). The Related Group Control Case Number is: SACV 11-01287 TJH(FMO). (m) (Entered: 11/28/2011) |
| 11/28/2011 | <u>21</u> | EXPARTE APPLICATION for Extension of Time to File Return filed by Respondents Charles Gilkey, Eric H Holder, Sandra Hutchens, Troy Lund, Janet Napolitano. (Attachments: # <u>1</u> Declaration, # <u>2</u> Declaration, # <u>3</u> Exhibit, # <u>4</u> Proposed Order)(Young, Stacey) (Entered: 11/28/2011) |
| 12/01/2011 | <u>22</u> | ORDER by Magistrate Judge Fernando M. Olguin: GRANTING <u>21</u> Respondent Ex Parte Application for A Second Extension of Time to File A Return to the Amended Habeas Petition. IT IS HEREBY ORDERED that the time for Respondents to file their return shall be extended to December 19, 2011. Petitioner shall serve and file a single Reply to the Return no later than January 18, 2012. (es) (Entered: 12/01/2011) |
| 12/13/2011 | <u>23</u> | Motion to Add Parties to Habeas Action filed by petitioner Frederick Ngaywa. (mr) (Entered: 12/14/2011) |
| 12/19/2011 | <u>24</u> | ANSWER to Amended Petition for Writ of Habeas Corpus <u>4</u> filed by Respondents Charles Gilkey, Eric H Holder, Sandra Hutchens, Troy Lund, Janet Napolitano.(Young, Stacey) (Entered: 12/19/2011) |

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| 12/19/2011 | <u>25</u> | NOTICE OF MOTION AND MOTION to Consolidate Cases, as to 07-3239, filed by Respondents Charles Gilkey, Eric H Holder, Sandra Hutchens, Troy Lund, Janet Napolitano. Motion set for hearing on 1/30/2012 at 09:00 AM before Judge Terry J. Hatter Jr. (Attachments: # <u>1</u> Proposed Order)(Young, Stacey) (Entered: 12/19/2011) |
| 12/22/2011 | <u>26</u> | NOTICE OF DISCREPANCY AND ORDER: by Magistrate Judge Fernando M. Olguin, ORDERING Emergency Motion to Notify Court of Recent Board of Immigration Appeals Decision submitted by Petitioner Frederick Ngaywa received on 12/21/11 is not to be filed but instead rejected. Denial based on: No proof of service attached to documents. (mr) (Entered: 12/22/2011) |
| 12/22/2011 | <u>27</u> | ORDER by Magistrate Judge Fernando M. Olguin, re MOTION to Consolidate Cases, as to 07-3239, <u>25</u> . The court is in receipt of respondents' Motion to Consolidate, filed on December 19, 2011. IT IS ORDERED as follows: Petitioner's Opposition or Notice of Non-Opposition to respondents' Motion must be filed and served no later than January 23, 2012. Respondent may file and serve a Reply Memorandum no later than February 7, 2012. (mr) (Entered: 12/22/2011) |
| 12/22/2011 | <u>28</u> | ORDER by Magistrate Judge Fernando M. Olguin, re MOTION for Order for Motion to Add Parties to Habeas Action <u>23</u> . The court is in receipt of petitioner's Motion to Add Parties to Habeas Action, filed on December 13, 2011. IT IS ORDERED as follows: Respondents' Opposition or Notice of Non-Opposition to petitioner's Motion must be filed and served no later than January 23, 2012. Petitioner may file and serve a Reply Memorandum no later than February 7, 2012. (mr) (Entered: 12/22/2011) |
| 01/20/2012 | <u>29</u> | OPPOSITION to MOTION for Order for Motion to Add Parties to Habeas Action <u>23</u> filed by Respondents Charles Gilkey, Eric H Holder, Sandra Hutchens, Troy Lund, Janet Napolitano. (Young, Stacey) (Entered: 01/20/2012) |
| 04/12/2012 | <u>31</u> | MINUTES IN CHAMBERS-ORDER AND NOTICE TO ALL PARTIES by Judge Terry J. Hatter, Jr. The Court is in receipt of Respondent's motion to consolidate cases <u>25</u> , filed on December 19, 2011. The Court having carefully considered the papers and the evidence submitted by the parties, hereby GRANTS the Respondents' motion and orders that this case is consolidated with Rodriguez v. Robbins, CV 07-3239-TJH (RNB). (lom) (Entered: 04/16/2012) |
| 04/16/2012 | <u>30</u> | MINUTES (IN CHAMBERS) - ORDER AND NOTICE TO ALL PARTIES by Judge Terry J. Hatter, Jr. Counsel are hereby notified that case Ngaywa v. Holder, et al, SA CV 11-01287-TJH (FMO) is consolidated with Rodriguez v. Robbins, CV 07-3239-TJH (RNB) for all purposes.Until a further order by the Court, any documents filed by the parties in the consolidated actions shall bear both case numbers, followed by the word "consolidated." CV 07-3239-TJH (RNB) will be the leadcase <u>25</u> . (lom) (Entered: 04/16/2012) |
| 05/15/2012 | <u>32</u> | Mail Returned addressed to Frederick Ngaywa re Minutes of In Chambers Order/Directive re Motion to Consolidate Cases <u>31</u> , not deliverable as addressed, unable to forward. (gk) (Entered: 05/16/2012) |
| 08/24/2012 | <u>33</u> | ORDER TRANSFERRING CIVIL ACTION pursuant to General Order 05-07. ORDER case transferred from Magistrate Judge Fernando M. Olguin to the calendar of Magistrate Judge Robert N. Block for any matters referred pursuant to General Order 05-07. The case number will now reflect the initials of the transferee Judge SACV 11-01287 TJH(RNB). Signed by Magistrate Judge Robert N. Block and Magistrate Judge Fernando M. Olguin. (rn) (Entered: 08/28/2012) |
| 08/28/2012 | <u>34</u> | ORDER VACATING REFERENCE TO MAGISTRATE JUDGE by Judge Terry J. Hatter, Jr. Reference of case to Magistrate Judge Robert N. Block is vacated. Case transferred to the calendar of Magistrate Judge Robert N. Block for Discovery. Case number now reads as SACV 11-01287 TJH(RNBx). (rn) (Entered: 08/28/2012) |
| 09/10/2012 | <u>35</u> | MINUTES OF Motion Hearing held before Judge Terry J. Hatter, Jr.: The Court and counsel confer. Following discussions with counsel, the Court will take Petitioner's Motion for Preliminary Injunction [filed 6/25/2012 in Case No. CV 07-03239 TJH (RNBx)] under submission. A written order will follow within 7 days. Court Recorder: CS 9/10/2012. (gk) (Entered: 09/13/2012) |
| 09/13/2012 | <u>36</u> | ORDER AND PRELIMINARY INJUNCTION by Judge Terry J. Hatter, Jr.: It is Ordered that Petitioners' Motion for Preliminary Injunction is Granted. It is further |

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| | | Ordered that Respondents and their agents, employees, assigns, and all those acting in concert with them, are preliminarily enjoined as follows: Within thirty days of the date of this order, Respondents shall identify all members of the Section 1225(b) and Section 1226(c) Subclasses and provide each of them with a bond hearing before an Immigration Judge with power to grant their release. See document for details. (gk) (Entered: 09/13/2012) |
| 09/20/2012 | <u>37</u> | Mail Returned addressed to Frederick Ngaywa re Order Transferring Case purs GO 05-07 (Magistrate Judge) (G-13) <u>33</u> . (gk) (Entered: 09/26/2012) |
| 09/20/2012 | <u>38</u> | Mail Returned addressed to Frederick Ngaywa re Order Vacating Reference to Magistrate Judge (CV-114) <u>34</u> . (gk) (Entered: 09/26/2012) |
| 10/18/2012 | <u>39</u> | Mail Returned addressed to Frederick Ngaywa re Order and Preliminary Injunction <u>36</u> . (gk) (Entered: 10/18/2012) |
| 10/21/2013 | <u>40</u> | MINUTES (IN CHAMBERS): ORDER AND NOTICE TO ALL PARTIES by Judge Terry J. Hatter, Jr: finding as moot <u>23</u> Motion for Order. Counsel are hereby notified that the Petitioner's sealed motion to add parties to Habeas Action <u>23</u> in case SA CV 11-1287-TJH, is hereby moot as the case was consolidated with case CV 07-3239-TJH(RNBx) on April 12, 2012 <u>31</u> . (rp) (Entered: 10/22/2013) |
| 12/11/2013 | <u>41</u> | Mail Returned addressed to Frederick Ngaywa re Minutes of In Chambers Order <u>40</u> . (gk) (Entered: 12/11/2013) |
| 12/01/2014 | <u>42</u> | Mail Returned addressed to Frederick Ngaywa re Minute Order on Motion to Consolidate Cases <u>30</u> . (gk) (Entered: 12/01/2014) |
| 04/07/2016 | <u>43</u> | MINUTE IN CHAMBERS by Judge Terry J. Hatter, Jr: Case should have been closed on entry dated: 8/6/2013. Per the Order consolidated filed on August 7, 2012 and Order re final judgment filed on August 6, 2013 in the consolidated case CV 07-3239-TJH (RNBx). (Made JS-6. Case Terminated.) (jp) (Entered: 04/07/2016) |