

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge John L. Kane**

Date: January 12, 2007

Court Reporter: Janet Coppock
Deputy Clerk: LaDonne Bush

Civil Action No. 06-cv-02494-JLK

RINALDO YARRITO, et al,

Petitioners,

John Bowen
DeAngelo Starnes
Jim Salvatore

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT DIVISION OF THE
DEPARTMENT OF HOMELAND
SECURITY,
JULIE L. MEYERS, Assistant Secretary
for Homeland Security,

Mark Pestal
Edward Wiggers
Elizabeth Stevens

Respondents.

COURTROOM MINUTES

Oral Argument

9:05 a.m. Court in session.

Court's preliminary comments.

Court finds, among other things, that it has jurisdiction over the petition, but any related challenges to the lawfulness of the removal order affecting individual petitioners will require a transfer to the Court of Appeals.

ORDERED: To the extent there are any detainees who have not yet been afforded bond hearings, those detainees shall be identified specifically and those hearings shall take place within 48 hours.

ORDERED: With regard to petitioners, if any, who remain in custody subject to a voluntary removal order which he or she claims was fraudulently or wrongfully obtained, those individuals shall not be removed pursuant to

those orders. The government is directed to comply with any request on behalf of those individuals to withdraw their agreement to voluntary removal.

Court suggests that counsel meet and confer to determine the names of the detainees, where they are being detained and their status.

9:46 a.m. Statement by Mr. Pestal.

Discussion between the Court and counsel regarding the issue of the representation of petitioners by Mr. Salvatore.

Statement by Mr. Bowen.

Statement by Ms. Stevens.

ORDERED: With Regard to Respondent's Motion for Reconsideration of the Court's January 5, 2006, Order and, in the Alternative, Motion to Dismiss for Lack of Jurisdiction and Partial Motion to Dismiss for Lack of Jurisdiction (Doc. 38):

1. the Motion for Reconsideration is denied;
2. the case is not dismissed;
3. the petitions are held in abeyance pending completion of petitioners' administrative processing;
4. the Court retains jurisdiction over the case to monitor ICE's compliance with the substantive and procedural due process protections afforded by Congress under the Immigration and Nationality Act and its implementing regulations, as well as the United States Constitution; and
5. petitioners' claims based on averred violations of the Fourth Amendment regarding the raid are dismissed.

Court directs counsel to meet and agree on a date for another hearing.

10:12 a.m. Court in recess.

Hearing concluded.
Time - 01:07