

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMES F. ...
U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

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CHRISTIAN DAVID,)
)
) Petitioner,)
)
) v.)
)
) U.S. SECRETARY OF STATE,)
)
) Respondent.)

Civil No. 84-3543

MOTION TO DETERMINE CUSTODY OF PETITIONER
PENDING APPELLATE REVIEW

Comes now the Petitioner, Christian David, by counsel and moves the Court pursuant to Rule 23(a) of the Rules of Appellate Procedure for the United States Courts of Appeals as follows:

1. Petitioner has herewith filed his Notice of Appeal with respect to the decision of the Court denying his Consolidated Petition for Habeas Corpus Relief.
2. Rule 23(a) of the Rules of Appellate Procedure for the United States Courts of Appeal provides as follows in part:

Pending review of a decision in a habeas corpus proceeding commenced before a court, justice or judge of the United States for the release of a prisoner, a person having custody of the prisoner shall not transfer custody to another unless such transfer is directed in accordance with the provisions of this rule.

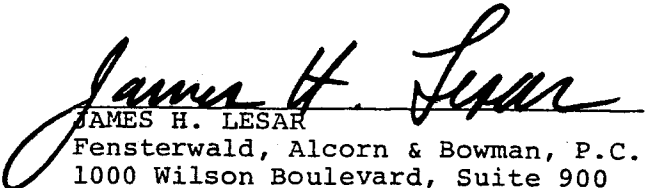
3. Petitioner is entitled to an appellate review of the decision of this court as provided in 28 U.S.C. §2253 as follows:

In a habeas corpus proceeding before a circuit or district judge, the final order shall be subject to review, on appeal, by the Court of Appeals for the circuit where the proceeding is had.

4. Petitioner is concerned that he obtain a full and fair hearing of his claims and based on his prior experiences he is apprehensive about what treatment he will receive.

WHEREFORE, Petitioner moves the Court to enter an order instructing the United States Marshall, the Department of Justice and the Department of State to not transfer the custody of the Petitioner to any other person or party pending the further order of this Court.

Respectfully submitted,


JAMES H. LESAR
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Arlington, Virginia 22209
703-276-9297

Counsel for Petitioner
CHRISTIAN DAVID

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

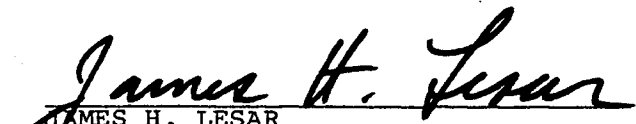
CHRISTIAN DAVID,)	
)	
Petitioner,)	
)	
v.)	Civil No. 84-3543
)	
U.S. SECRETARY OF STATE,)	
)	
Respondent.)	

MEMORANDUM OF POINTS AND AUTHORITIES

Comes now the Petitioner by counsel and presents this memorandum in support of his Motion to Determine Custody of Petitioner Pending Appellate Review, as follows:

1. Petitioner relies on his right to appeal and receive appellate review of the decision of this Court contained in 28 U.S.C. §2253, and upon Rule 23(a) of the Rules of Appellate Procedure for United States Courts of Appeals preventing transfer of custody of the Petitioner pending review by the Appellate Court.

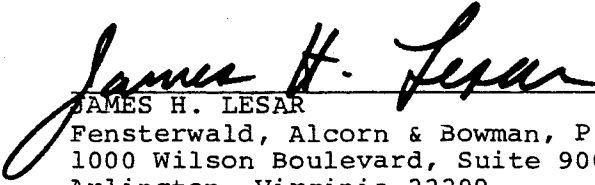
Respectfully submitted,


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703-276-9297

Counsel for Petitioner
CHRISTIAN DAVID

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Determine Custody of Petitioner Pending Appellate Review was this 22nd day of January, 1985, hand-delivered to John C. Martin, Assistant United States Attorney, Room 6400, U.S. Court House, 3rd and Constitution Avenue, N.W., Washington, D.C. 20001, and to Murray R. Stein, Associate Director, Office of International Affairs, Department of Justice, Washington, D.C. 20530.


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CHRISTIAN DAVID

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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O R D E R

This case came on upon the Petitioner's Motion to Determine Custody of Petitioner Pending Appellate Review, and

It appearing to the Court that Rule 23(a) of the Appellate Rules of U.S. Courts of Appeals prevents transfer of custody of Petitioner unless otherwise ordered upon a showing of need therefor and providing for substitution of the successor custodian as a party; it is therefore

ADJUDGED AND ORDERED that the U.S. Marshall's Service and the U.S. Department of Justice shall not transfer the custody of Petitioner CHRISTIAN DAVID to any other person or persons or to any other facility of detention until further order of this Court.

Entered this 22nd day of January, 1985.

Honorable Thomas Penfield Jackson
U.S. District Judge