

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

JEAN MONTREVIL,

Petitioner,

v.

THOMAS R. DECKER, in his official capacity as
New York Field Office Director for U.S.
Immigration and Customs Enforcement;

TAE JOHNSON, in his official capacity as Acting
Director of U.S. Immigration and Customs
Enforcement;

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

ALEJANDRO MAYORKAS, in his official
capacity as Secretary of Homeland Security;

U.S. DEPARTMENT OF
HOMELAND SECURITY;

MERRICK B. GARLAND, in his official capacity
as Attorney General of the United States;

and

U.S. DEPARTMENT OF JUSTICE EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW,

Respondents.

No. 20-cv-264 (WFK)(LB)

**STIPULATION AND ORDER OF
VOLUNTARY DISMISSAL**

WHEREAS, in January 2020, the petitioner JEAN MONTREVIL (“Mr. Montrevil”) commenced this action seeking declaratory, injunctive, and habeas relief against Thomas R. Decker, in his official capacity as New York Field Office Director for U.S. Immigration and Customs Enforcement; Tae Johnson, in his official capacity as Acting Director of U.S.

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Immigration and Customs Enforcement; U.S. Immigration and Customs Enforcement; Alejandro Mayorkas, in his official capacity as Secretary of Homeland Security; U.S. Department of Homeland Security; Merrick B. Garland, in his official capacity as Attorney General of the United States; and U.S. Department of Justice Executive Office for Immigration Review (collectively “Respondents”), asserting claims of unlawful retaliation in violation of the First Amendment and violations of the Due Process Clause of the Fifth Amendment and various statutory and regulatory rights; and

WHEREAS, while there are open legal issues and factual disputes, including with respect to subject matter jurisdiction and the merits of the case, the parties wish to resolve this action without further litigation and pursuant to the terms and conditions contained herein;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the parties, through their undersigned counsel, that:

1. This action is dismissed with prejudice and without costs or attorney’s fees, including but not limited to Equal Access to Justice Act (“EAJA”) fees, to either party under Fed. R. Civ. P. 41(a)(2).
2. Mr. Montrevil will be granted humanitarian parole upon the filing of a motion to reopen with the Board of Immigration Appeals that conforms with all statutory and regulatory requirements. The U.S. Immigration and Customs Enforcement (“ICE”) of the U.S. Department of Homeland Security (“DHS”) commits not to oppose a motion to reopen based on the time and numerical restrictions of 8 C.F.R. § 1003.2(c)(2) and, upon being provided with a copy of the motion to reopen for

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review, will consider whether to affirmatively join the motion. *See id.* at 1003.2(c)(3)(iii).¹

3. Mr. Montrevil will receive three years of deferred action, commencing on the date this Stipulation and Order of Voluntary Dismissal is approved and entered on the docket of this case by the Court. Within three (3) business days of the approval and entry of this Stipulation and Order by the Court, ICE shall execute and deliver to Mr. Montrevil a letter memorializing the grant of three years of deferred action. No later than five business days after the expiration of the three-year deferred action to determine the status of his case, Mr. Montrevil will report to the ICE New York Field Office, located at 26 Federal Plaza, Suite 9-110, New York, New York 10278.
4. Mr. Montrevil will be required to report to the ICE New York Field Office, located at 26 Federal Plaza, Suite 9-110, New York, New York 10278, once per year, on every First Tuesday of February, during the three-year period of deferred action.
5. Mr. Montrevil will be permitted to travel domestically without notification to the ICE New York Field Office, located at 26 Federal Plaza, Suite 9-110, New York, New York 10278, or other restrictions arising from the allegations in the above-captioned action.
6. Mr. Montrevil and ICE agree to release and forever discharge one another and their past and present respective officers, agents, and employees, from the claims asserted or that could have been asserted in the complaint filed in the above-captioned action,

¹ During the pendency of settlement discussions, DHS acknowledges that Mr. Montrevil, through counsel, has submitted with ICE a request for a joint motion to reopen.

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and any and all claims, demands, suits, rights, damages, administrative remedies, and causes of action of any kind, nature, and character, known and unknown, arising from or related to the circumstances described in the above-captioned action. Under this term, Mr. Montrevil shall forever be barred and enjoined from bringing or prosecuting any claims asserted in the complaint filed in the above-captioned action or arising from such claims against any of the Respondents, and all of their past and present agencies, officials, employees, agents, attorneys, and successors. However, Mr. Montrevil will not be precluded from filing suit against any Respondent for any reason other than based on the specific allegations in the above-captioned action or the claims asserted or that could have been asserted in the complaint filed in the above-captioned action.

7. Any violation of release conditions and/or criminal arrest by any law enforcement agency would nullify Paragraphs 2, 3, 4 and 5 of this Stipulation and Order of Voluntary Dismissal and require that Mr. Montrevil surrender himself to ICE Enforcement and Removal Operations (“ERO”) New York, located at 26 Federal Plaza, Suite 9-110, New York, New York 10278, to determine the status of his case, including the possibility of removal should he have an administratively final order of removal. Motor vehicle-related citations, but not arrests for traffic violations, are excluded from the conditions under which the Paragraphs 2, 3, 4 and 5 of this Stipulation and Order of Voluntary Dismissal would be nullified.
8. Mr. Montrevil will have the opportunity to apply for employment authorization, pursuant to the relevant criteria applicable to such, during the period of his deferred

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- action, and ICE will defer to U.S. Citizenship and Immigration Services on the decision of whether to grant employment authorization.
9. Respondents have agreed to the above based on the specific facts and circumstances presented in this matter, and nothing in this stipulation shall be construed as a concession of liability, wrongdoing, or any rights or arguments by the Respondents; nor shall it be construed to require the government to agree to similar terms or take similar actions with respect to any other noncitizen in similar or dissimilar circumstances, and this agreement shall in no way be used to undermine the government's litigation position in any other case.
10. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

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New York, New York
December 13, 2021

Brooklyn, New York
December 13, 2021

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SO ORDERED.

s/ WFK

HON. WILLIAM F. KUNTZ, II
United States District Judge

Dated: December 15, 2021
Brooklyn, New York