

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, ORLANDO DIVISION

Omar Assaf Junior v. Secretary of State and United States Attorney
General

Junior · No. 6:23-cv-810-JSS-LHP · Decided December 16, 2025

SUMMARY

The United States District Court for the Middle District of Florida dismissed without prejudice Omar Assaf Junior’s 28 U.S.C. § 2241 petition challenging certification of his extradition to Brazil. The court held that the rule of non-inquiry barred judicial consideration of his claims that extradition would violate the Convention Against Torture and that those claims were not ripe because the Secretary of State had not decided whether to surrender him. The court denied a certificate of appealability and directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Orlando Division
WRITING FOR THE COURT	Jumie S. Sneed
JURISDICTION	United States District Court for the Middle District of Florida, Orlando Division
DECIDED	December 16, 2025
DOCKET	6:23-cv-810-JSS-LHP
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging a magistrate judge's certification of extraditability to Brazil.
STANDARD OF REVIEW	Habeas review of a magistrate judge's certificate of extraditability is narrow and generally limited to whether the magistrate had jurisdiction, whether the charged offense falls within the treaty, and whether there was any evidence supporting reasonable grounds to believe the accused was guilty.
PRECEDENTIAL VALUE	Unpublished district court order; persuasive but not precedential beyond the case.

PARTIES

Omar Assaf Junior v. Secretary of State, United States Attorney General

TOPICS

federal habeas corpus

foreign affairs

separation of powers

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PRACTICE AREAS

Federal habeas corpus

Extradition

Foreign affairs

Constitutional law

QUESTIONS PRESENTED

1. Whether habeas review of the magistrate judge's extradition certification permitted the district court to consider Petitioner's Convention Against Torture and humanitarian concerns.
2. Whether Petitioner's Convention Against Torture challenge was ripe before the Secretary of State decided whether to surrender him to Brazil.
3. Whether the extradition process, including consideration of humanitarian concerns by the Secretary of State rather than the court, satisfied Petitioner's Fifth Amendment due process rights.
4. Whether Petitioner was entitled to a certificate of appealability.

HOLDINGS

1. Collateral habeas review of a magistrate judge's certificate of extraditability is limited to jurisdiction, whether the offense is covered by the treaty, and whether evidence supports reasonable grounds to believe the accused committed the offense; the court may not review the wisdom or humanitarian consequences of extradition.
2. The rule of non-inquiry precludes the district court from considering whether extradition to Brazil would expose Petitioner to torture in violation of the Convention Against Torture.
3. Petitioner's Convention Against Torture challenge was not ripe because the Secretary of State had not yet decided whether to surrender him to Brazil.
4. The extradition process did not violate Petitioner's Fifth Amendment due process rights because humanitarian and Convention Against Torture concerns are considered by the Secretary of State, and Petitioner received an extradition hearing and habeas review.
5. Petitioner was not entitled to a certificate of appealability because he failed to make a substantial showing of the denial of a constitutional right.

KEY QUOTATIONS

“Accordingly, the rule of non-inquiry precludes this court from considering whether Petitioner’s extradition to Brazil would subject him to torture in violation of the Convention Against Torture.” (Analysis)

“Accordingly, this issue, as Petitioner concedes, is not ripe for review.” (Analysis)

FACTUAL BACKGROUND

Petitioner, a Brazilian national, was convicted in Brazil of aggravated homicide and sentenced to sixteen years in prison after shooting and killing a man outside a bar in Curitiba. While in the United States, he obtained protection from removal under the Convention Against Torture based on the likelihood that he would be tortured if returned to Brazil. A magistrate judge nevertheless certified him as extraditable after finding jurisdiction, a valid treaty, probable cause, and a treaty-covered offense. The Secretary of State had not yet decided whether to surrender Petitioner to Brazil.

PROCEDURAL HISTORY

Brazilian authorities sought Petitioner's extradition after his conviction in Brazil for aggravated homicide. A magistrate judge conducted an extradition hearing, found the treaty and jurisdictional requirements satisfied, found probable cause, and certified Petitioner as extraditable. Petitioner then sought habeas relief, arguing that extradition would violate the Convention Against Torture, the Foreign Affairs Reform and Restructuring Act, and his Fifth Amendment due process rights. The district court dismissed the petition without prejudice and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- *Martin v. Warden, Atlanta Pen*, 993 F.2d 824, 828–30 & n.10 (11th Cir. 1993)
- *United States v. Nascimento*, No. 6:19-MC-48-ORL-78GJK, 2019 WL 5853874, at *1 (M.D. Fla. Nov. 8, 2019)
- *Gonzalez v. Reno*, 212 F.3d 1338, 1349 n.12 (11th Cir. 2000)
- *Hernandez v. Mesa*, 589 U.S. 93, 104 (2020)
- *Pajkanovic v. United States*, 353 F. App'x 183, 184–85 (11th Cir. 2009)
- *Kastnerova v. United States*, 365 F.3d 980, 984 (11th Cir. 2004)
- *Arias Leiva v. Warden*, 928 F.3d 1281, 1285, 1295 (11th Cir. 2019)
- *Afanasjev v. Hurlburt*, 418 F.3d 1159, 1163 (11th Cir. 2005)
- *Hurtado v. United States Attorney General*, 401 F. App'x 453, 456 (11th Cir. 2010)
- *Escobedo v. United States*, 623 F.2d 1098, 1107 (5th Cir. 1980)
- *United States v. Kin-Hong*, 110 F.3d 103, 110–11 (1st Cir. 1997)
- *Meza v. McGrew*, No. 11-60955-CIV, 2013 WL 12202484, at *5 (S.D. Fla. Sept. 16, 2013)
- *Prasoprat v. Benov*, 421 F.3d 1009, 1016 (9th Cir. 2005)
- *Meza v. United States Attorney General*, 693 F.3d 1350, 1354–57 (11th Cir. 2012)
- *Peroff v. Hylton*, 563 F.2d 1099, 1102–03 (4th Cir. 1977)
- *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)
- *Lamarca v. Secretary, Department of Corrections*, 568 F.3d 929, 934 (11th Cir. 2009)

- Ford v. Secretary, Florida Department of Corrections, No. 8:16-CV-2866-JDW-JSS, 2021 WL 12240173, at *2 (M.D. Fla. Apr. 5, 2021)

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