

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 18-5024**

**September Term, 2017**

**1:17-cv-02359-KBJ**

**Filed On: April 5, 2018**

Francis R. Walker,

Appellant

v.

Rex W. Tillerson, Secretary of State,

Appellee

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**BEFORE:** Tatel and Katsas, Circuit Judges, and Ginsburg, Senior Circuit  
Judge

**J U D G M E N T**

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that the district court’s December 22, 2017 order, denying appellant’s petition under 28 U.S.C. § 2241, be affirmed. The district court correctly concluded that appellant is not a “prisoner” who is “in custody,” and 28 U.S.C. § 2241 therefore does not apply. See 28 U.S.C. § 2241; see also Carafas v. LaVallee, 391 U.S. 234, 238 (1968) (“The federal habeas corpus statute requires that the applicant must be ‘in custody’ when the application for habeas corpus is filed.”). Appellant has not established that he is in appellee’s custody pursuant to “an order, process, judgment or decree of a court or judge of the United States” or of a state court. See 28 U.S.C. § 2241(c).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution

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of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Ken Meadows  
Deputy Clerk