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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MAYK MATUTE,

1:09-cv-01196-DLB (HC)

Petitioner,

**ORDER TO SHOW CAUSE WHY THE
PETITION SHOULD NOT BE GRANTED**

v.

ATTORNEY GENERAL, et.al.,

Respondents.

Petitioner is detained by the Immigration and Customs Enforcement (“ICE”) and is proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

In the petition filed, Petitioner alleges that his detention pursuant to 8 U.S.C. § 1231(a)(2) is indefinite and violates his substantive and procedural due process rights under the Due Process Clause of the Fifth Amendment of the United States Constitution. Petitioner also asserts that his detention is in violation of Respondent’s statutory authority.

Because Petitioner may be entitled to relief if the claimed violations are proved, Respondent **IS ORDERED TO SHOW CAUSE** why the Petition should not be granted. Rule 4, Rules Governing Section 2254 Cases; see Rule 1(b), Rule 11, Rules Governing Section 2254 Cases; Fed. R. Civ. P. 81(a)(2). Respondent **SHALL INCLUDE** a copy of Petitioner’s Alien File and any and all other documentation relevant to the determination of the issues raised in the petition. Rule 5 of the Rules Governing Section 2254 Cases. In the event the Petitioner is released from BICE custody during the pendency of this Petition, the parties **SHALL** notify the

1 Court by filing a Motion to Dismiss the Petition or other proper pleading. Should the parties fail
2 to notify the Court that Petitioner has been released, the parties may be subject to sanctions
3 pursuant to the inherent power of the Court to issue sanctions in appropriate cases. See Local
4 Rule 11-110.

5 Accordingly, IT IS HEREBY ORDERED:

- 6 1. Respondent is ORDERED TO SHOW CAUSE why the Petition should not be
7 granted. The Return to the Order to Show Cause is due within FORTY-FIVE
8 (45) days of the date of service of this order. Petitioner may file a Traverse to the
9 Return within TEN (10) days of the date the Return to the Order to Show Cause is
10 filed with the Court.¹

11 The Court has determined that this matter is suitable for decision without oral argument
12 pursuant to Local Rule 78-230(h). As such, the matter will be taken under submission following
13 the filing of Petitioner's Traverse or the expiration of the time for filing the Traverse. All other
14 briefing in this action is suspended.

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16 IT IS SO ORDERED.

17 **Dated: February 17, 2010**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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¹ Respondent is advised that a scanned copy of the petition for writ of habeas corpus is available through the Court's Electronic Case Filing System ("CM/ECF").