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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOSE LUIS MEDINA-LARA,  
  
                                  Petitioner,  
  
          v.  
ERIC H. HOLDER, JR., et. al.,  
  
                                  Respondents.

) 1:10-cv-02255-JLT HC  
)  
) ORDER TO SHOW CAUSE WHY THE  
) PETITION SHOULD NOT BE GRANTED  
)  
) ORDER DIRECTING THE CLERK TO  
) SERVE DOCUMENTS ON RESPONDENT  
)  
)  
)

Petitioner is detained by the United States Bureau of Immigration and Customs Enforcement (“ICE”) and is proceeding with a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. In the petition, Petitioner alleges that he is a native of Mexico and that he has been in continuous custody of ICE since September 14, 2009. (Doc. 1, p. 4).<sup>1</sup> Petitioner alleges that his detention is unlawful and violates his due process rights under the Due Process Clause of the Fifth Amendment of the United States Constitution. (Doc. 1, p. 4). Petitioner also asserts that he is entitled to a bond hearing before a neutral magistrate. (Id., p. 5).

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<sup>1</sup>It appears from the petition that removal proceedings are still pending. Therefore, Petitioner may presently be subject to 8 U.S.C. §1226(c)(1), which applies to the detention of criminal aliens, and therefore Petitioner’s release may be prohibited by statute unless Respondent concludes that Petitioner satisfies one of several narrow exceptions contained in 8 U.S.C. § 1226(c)(2). However, the record is presently insufficient for the Court to make findings in this regard. Therefore, the Court has no alternative but to require Respondent to file a response to this Order to Show Cause.

1 Because Petitioner may be entitled to relief if the claimed violations are proved, Respondent  
2 IS ORDERED TO SHOW CAUSE why the Petition should not be granted. Rule 4, Rules Governing  
3 Section 2254 Cases; see Rule 1(b), Rule 11, Rules Governing Section 2254 Cases; Fed. R. Civ. P.  
4 81(a)(2). Respondent SHALL INCLUDE a copy of Petitioner's Alien File and any and all other  
5 documentation relevant to the determination of the issues raised in the petition. Rule 5 of the Rules  
6 Governing Section 2254 Cases. In the event the Petitioner is released from ICE custody during the  
7 pendency of this Petition, the parties SHALL notify the Court by filing a Motion to Dismiss the  
8 Petition or other proper pleading. Should the parties fail to notify the Court that Petitioner has been  
9 released, the parties may be subject to sanctions pursuant to the inherent power of the Court to issue  
10 sanctions in appropriate cases. See Local Rule 110.

11 Accordingly, IT IS HEREBY ORDERED:

- 12 1. Respondent is ORDERED TO SHOW CAUSE why the Petition should not be granted.  
13 The Return to the Order to Show Cause is due within FORTY-FIVE (45) days of the  
14 date of service of this order. Petitioner may file a Traverse to the Return within TEN  
15 (10) days of the date the Return to the Order to Show Cause is filed with the Court.
- 16 2. The Clerk of the Court is DIRECTED to SERVE a copy of the Petition for Writ of  
17 Habeas Corpus on the United States Attorney.

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

22  
23 IT IS SO ORDERED.

24 Dated: December 14, 2010

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE