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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IVAN LUIS TORRES,)	
)	
Petitioner,)	No. C 09-0410 CRB (PR)
)	
vs)	ORDER OF DISMISSAL
)	
U. S. ATTORNEY GENERAL,)	
)	
Respondent(s).)	
_____)	

Petitioner, an alien and prisoner in the custody of the North Carolina Department of Correction, has filed a pro se petition for an expedited deportation hearing. He also seeks leave to proceed in forma pauperis which, good cause appearing, is granted.

The petition will be liberally construed as a petition for a writ of habeas corpus under 28 U.S.C. § 2241. But it must be dismissed because it is well-established that a hold or detainer letter alone does not sufficiently place an alien in INS (now Bureau of Immigration and Customs Enforcement ("BICE")) custody to make habeas corpus available. See Garcia v. Taylor, 40 F.3d 299, 303 (9th Cir. 1994); see also id. at 303-04 (mandamus not available to expedite deportation proceedings).

1 It matters not that under 8 U.S.C. § 1228(c)(1) a district court may order
2 deportation because said discretion may be exercised only if the deportation is
3 “requested by the United States Attorney with the concurrence of [BICE].” No
4 such request has been made here.

5 The clerk shall enter judgment in favor of respondent, terminate all
6 pending motions as moot and close the file.

7 SO ORDERED.

8 DATED: Feb. 02, 2009



CHARLES R. BREYER
United States District judge