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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

AOUS ZUHER JARRAR,  
Petitioner,  
v.  
ERIC HOLDER, et al.,  
Respondents.

Case No. [14-cv-01566-JCS](#) (PR)

**ORDER REOPENING ACTION;  
ORDER TO SHOW CAUSE**

**INTRODUCTION**

Petitioner seeks federal habeas relief from his federal detention.<sup>1</sup> The petition for such relief pursuant to 28 U.S.C. § 2241 is now before the Court for review. Respondents shall file a response to the petition on or before October 15, 2014, unless an extension is granted. **Respondents may wish to submit briefing on who is the proper respondent (or respondents) in this action, or on whether the REAL ID Act of 2005 (Pub. L. No. 109-13, 119 Stat. 231, § 106(a), amending 8 U.S.C. § 1252) deprives this Court of**

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<sup>1</sup> Petitioner has consented to magistrate judge jurisdiction. The magistrate, then, has jurisdiction to issue this order, even though respondents have not been served or consented to magistrate jurisdiction. *See Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995) (holding that magistrate judge had jurisdiction to dismiss prison inmate's action under 42 U.S.C. § 1983 as frivolous without consent of defendants because defendants had not been served yet and therefore were not parties).

1 **jurisdiction, or on both issues.**

2 This action has been transferred here from the Ninth Circuit. Accordingly, the  
3 action is hereby REOPENED. The Clerk is directed to amend the docket accordingly.

4 **BACKGROUND**

5 According to the petition, petitioner, an alien, is being detained by the Yuba County  
6 Sheriff on behalf of the United States Immigration and Customs Enforcement (“ICE”)  
7 pursuant to a final order of removal.<sup>2</sup> He was ordered to be removed from the United  
8 States on September 11, 2013. However, as of April 4, 2014, the date the instant petition  
9 was filed, he remains in federal custody. He claims that his continued detention violates  
10 his right to due process.

11 **DISCUSSION**

12 **A. Standard of Review**

13 Section 2241 allows “the Supreme Court, any justice thereof, the district courts and  
14 any circuit judge” to grant writs of habeas corpus “within their respective jurisdictions.”  
15 28 U.S.C. § 2241(a). A district court shall “award the writ or issue an order directing the  
16 respondent to show cause why the writ should not be granted, unless it appears from the  
17 application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.  
18 Summary dismissal is appropriate only where the allegations in the petition are vague or  
19 conclusory, palpably incredible, or patently frivolous or false. *See Hendricks v. Vasquez*,  
20 908 F.2d 490, 491 (9th Cir. 1990).

21 As grounds for federal habeas relief, petitioner alleges that his continued detention  
22 violates his right to due process. When liberally construed, this claim is cognizable on  
23 federal habeas review.

24 **CONCLUSION**

25 1. The Clerk shall serve a copy of this order, the petition and all attachments  
26 thereto, on respondents. The Clerk shall also serve a copy of this order on petitioner.

27 \_\_\_\_\_  
28 <sup>2</sup> The Ninth Circuit declined to construe the instant habeas petition as a challenge to the  
final order of removal. (Docket No. 9.)

1           2. Respondents shall file with the Court and serve on petitioner, within ninety (90)  
2 days of the date this order is filed, an answer showing cause why a writ of habeas corpus  
3 should not be granted based on petitioner’s cognizable claim. Respondents shall file with  
4 the answer and serve on petitioner a copy of all portions of the state trial record that  
5 previously have been transcribed and that are relevant to a determination of the issues  
6 presented by the petition.

7           3. If petitioner wishes to respond to the answer, he shall do so by filing a traverse  
8 with the Court and serving it on respondents within thirty (30) days of the date the answer  
9 is filed.

10          4. In lieu of an answer, respondents may file, within ninety (90) days of the date  
11 this order is filed, a motion to dismiss on procedural grounds. If respondents file such a  
12 motion, petitioner shall file with the Court and serve on respondents an opposition or  
13 statement of non-opposition within thirty (30) days of the date the motion is filed, and  
14 respondents shall file with the Court and serve on petitioner a reply within fifteen (15)  
15 days of the date any opposition is filed.

16          5. Petitioner is reminded that all communications with the Court must be served on  
17 respondents by mailing a true copy of the document to respondents.

18          6. It is petitioner’s responsibility to prosecute this case. Petitioner must keep the  
19 Court and respondents informed of any change of address and must comply with the  
20 Court’s orders in a timely fashion. Failure to do so may result in the dismissal of this  
21 action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

22          7. Upon a showing of good cause, requests for a reasonable extension of time will  
23 be granted provided they are filed on or before the deadline they seek to extend.

24          8. The Court notes that the filing fee has been paid.

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9. Petitioner’s motion for reconsideration of the Court’s order transferring the action to the Ninth Circuit Court of Appeals (Docket No. 8) is DENIED as moot, the Ninth Circuit having transferred the action to this Court.

10. The Clerk shall terminate Docket No. 8.

**IT IS SO ORDERED.**

**Dated:** July 18, 2014

  
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JOSEPH C. SPERO  
United States Magistrate Judge

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

AOUS ZUHER JARRAR,  
Plaintiff,  
v.  
ERIC HOLDER, et al.,  
Defendants.

Case No. [14-cv-01566-JCS](#)

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 7/18/2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Aous Zuher Jarrar  
Yuba County Jail  
P.O. Box 1031  
Marysville, CA 95901

Dated: 7/18/2014

Richard W. Wieking  
Clerk, United States District Court

By: Karen L. Hom  
Karen Hom, Deputy Clerk to the  
Honorable JOSEPH C. SPERO