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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GUIBRAN ARIEL RUIZ CHAVEZ,
Plaintiff.
v.
JEFFERSON SESSIONS, et al.,
Defendants.

Case No. [18-cv-00439-MEJ](#)

ORDER TO SHOW CAUSE

Re: Dkt. No. 1

A federal district court is authorized to grant a writ of habeas corpus when a petitioner is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3).

Petitioner Guibran Ariel Ruiz Chavez, who is in the custody of the Department of Homeland Security, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petition, Dkt. No. 1. He alleges he has been detained at the West County Detention Facility in Richmond, California for over six months, despite the fact the San Francisco Immigration Court granted his Application for Withholding of Removal to Guatemala, and despite the fact the possibility of removal to another country is an unlikely possibility. Petitioner alleges his continued detention violates 8 U.S.C. § 1231(a) and his Fifth Amendment right to due process. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). He names four persons as Respondents: U.S. Attorney General Jefferson Sessions; Secretary of the U.S. Department of Homeland Security Kirstjen Nielson; Field Office Director of U.S. Immigration and Customs Enforcement for San Francisco David Jennings; and Sheriff-Coroner of Contra Costa County David O. Livingston.¹

¹ Under 28 U.S.C. § 2241, the proper respondent for a habeas corpus petition is the person “with the ability to produce the prisoner’s body before the habeas court.” *Rumsfeld v. Padilla*, 542 U.S.

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Petition ¶¶ 11-14.

Having considered the pleadings and documents in this matter, and good cause having been shown by Petitioner, the Court ORDERS Respondents to Show Cause:

1. By April 2, 2018, Respondents shall respond by answering the allegations and showing cause why a writ of habeas corpus should not issue, or by filing a motion to dismiss on procedural grounds;

2. Petitioner’s traverse, opposition, or statement of non-opposition shall be filed by May 2, 2018; and

3. Any reply by Respondents shall be due May 17, 2018.

The Clerk of the Court shall serve a copy of this Order, the petition, and all attachments thereto, on Respondents and shall serve copies of these documents to the U.S. Attorney for the Northern District of California. The Clerk shall also serve a copy of the “consent or declination to magistrate judge jurisdiction” upon Respondents and their attorneys.

IT IS SO ORDERED.

Dated: February 1, 2018



MARIA-ELENA JAMES
United States Magistrate Judge

426, 435 (2004). The “default rule” is that the “warden of the facility where the prisoner is being held” is the proper respondent where the petitioner is challenging present physical confinement, “not the Attorney General or some other remote supervisory official[.]” *Id.* Petitioner alleges David O. Livingston, the Sheriff-Coroner of Contra Costa County, is in charge of the West County Detention Facility where Petitioner is being held. Petition ¶ 14.