

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

3 MARIO MEJIA, No. C 10-02231 CW (PR)
4 Petitioner, ORDER OF DISMISSAL
5 v.
6 FERNANDO GONZALES, Warden,
7 Respondent.
8 _____/

9 Petitioner Mario Mejia, a state prisoner, has filed the
10 present petition for a writ of habeas corpus. He also seeks leave
11 to proceed in forma pauperis.


12 Petitioner is an alien subject to an INS hold or detainer on
13 his release from state custody. He seeks to have the INS hold
14 "dismissed."

15 The petition is construed as a petition for a writ of habeas
16 corpus under 28 U.S.C. § 2241 and is DISMISSED without prejudice
17 because it is premature. See Garcia v. Taylor, 40 F.3d 299, 303
18 (9th Cir. 1994) (hold or detainer letter alone does not
19 sufficiently place an alien in INS custody to make habeas corpus
20 available).

21 Petitioner's application to proceed in forma pauperis is
22 GRANTED. The Clerk of the Court shall terminate all pending
23 motions as moot and close the file.

24 IT IS SO ORDERED.

25 Dated: 8/27/2010



26 _____
27 CLAUDIA WILKEN
28 UNITED STATES DISTRICT JUDGE

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 MARIO MARJIA,

5 Plaintiff,

6 v.

7 WARDEN GONZALES et al,

8 Defendant.

Case Number: CV10-02231 CW

CERTIFICATE OF SERVICE

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

11 That on August 27, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 Mario A. Mejia G-26696
16 Unit 2-Dorm-2-3 Low
17 California Correctional Institution
18 P.O. Box 608
19 Tehachapi, CA 93581

20 Dated: August 27, 2010

21 Richard W. Wieking, Clerk
22 By: Nikki Riley, Deputy Clerk
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United States District Court
For the Northern District of California