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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JUAN CARLOS LOPEZ-VELAZQUEZ,
Petitioner,
v.
JEH JOHNSON, et al.,
Respondents.

Case No. 16-cv-01226-KAW

ORDER TO SHOW CAUSE

Re: Dkt. No. 1

Petitioner Juan Carlos Lopez-Velazquez, an ICE detainee subject to a removal order, has filed a petition for writ of habeas corpus. He claims that the entry and enforcement of the removal order is barred by the doctrine of res judicata.

This Court has the power to grant habeas corpus relief. 28 U.S.C. § 2241. The district court shall "award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243. Having reviewed the petition, the Court finds that Petitioner's claims are potentially colorable under 28 U.S.C. § 2241 and merit an answer from Respondents. The Court, therefore, orders Respondents to show cause why a writ of habeas corpus should not be granted.

Accordingly:

1. The Clerk shall serve a copy of this order, the petition, and all attachments thereto upon Respondents. The Clerk shall also serve a copy of this Order on Petitioner.

2. Within 60 days of this order, Respondents shall file an answer conforming in all respects to Rule 5 of the Rules Governing § 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondents shall file the answer together with (a) a memorandum

1 of points and authorities, (b) the matters defined in Rule 5 of the Rules Governing § 2254 Cases,
2 (c) portions of the record that are relevant to a determination of the issues presented by the
3 petition, and (d) a certificate of service. If Petitioner wishes to respond to the answer, he shall do
4 so by filing a traverse with the Court and serving it on Respondents within 30 days of his receipt
5 of the answer. If Petitioner does not file a traverse, the petition will be deemed submitted and
6 ready for decision 30 days after the date Petitioner is served with Respondents' answer.

7 3. Respondents may file a motion to dismiss on procedural grounds in lieu of an
8 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing § 2254
9 Cases. If Respondents files such a motion, Petitioner shall serve and file an opposition or
10 statement of non-opposition to the motion within 30 days of receipt of the motion. Respondents
11 shall serve and file a reply within 15 days of receipt of any opposition.

12 4. Respondents shall file a Consent or Declination to Magistrate Judge Jurisdiction on
13 or before the date the answer is due.

14 IT IS SO ORDERED.

15 Dated: 03/21/2016

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KANDIS A. WESTMORE
18 United States Magistrate Judge
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