

1 “award the writ or issue an order directing the respondent to show cause why the writ
2 should not be granted, unless it appears from the application that the applicant or person
3 detained is not entitled thereto.” 28 U.S.C. § 2243. Summary dismissal is appropriate
4 only where the allegations in the petition are vague or conclusory, palpably incredible,
5 or patently frivolous or false. See Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir.
6 1990) (quoting Blackledge v. Allison, 431 U.S. 63, 75-76 (1977)).

7 **B. Legal Claims**

8 Petitioner is currently housed in the West County Detention Facility in
9 Richmond, California, awaiting removal to Tunisia. He seeks habeas relief from the
10 removal order and immediate release from detention.

11 However, the REAL ID Act of 2005, makes the United States Court of Appeals
12 the “sole” judicial body able to review challenges to final orders of deportation,
13 exclusion, or removal. Alvarez-Barajas v. Gonzales, 418 F.3d 1050, 1052 (9th Cir.
14 2005) (citing REAL ID Act, Pub.L. No. 109-13, 119 Stat. 231, § 106(a)). Because
15 petitioner is challenging the immigration judge’s order of removal, this court lacks
16 jurisdiction over his action. Petitioner’s sole avenue for relief is to file a petition for
17 review in the United States Court of Appeals for the Ninth Circuit.

18 Petitioner’s motion for appointment of counsel, (Docket No. 4), is DENIED as
19 moot.

20
21 **CONCLUSION**

22 1. In light of the foregoing, the petition for a writ of habeas corpus is
23 **DISMISSED** without prejudice to Petitioner challenging his removal order in the
24 United States Court of Appeals for the Ninth Circuit.

25 2. Because reasonable jurists would not find the result here debatable, a
26 certificate of appealability (“COA”) is **DENIED**. See Slack v. McDaniel, 529 U.S. 473,
27 484-85 (2000) (standard for COA).

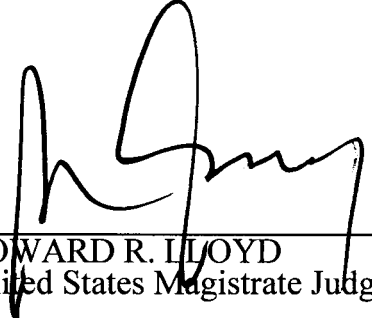
28 3. Petitioner’s motion for leave to proceed in forma pauperis, (Docket No.

1 2), is **GRANTED**, and his motion for appointment of counsel, (Docket No. 3), is
2 **DENIED** as moot.

3 The Clerk shall close the file.

4 **IT IS SO ORDERED.**

5
6 DATED: 6/9/14



HOWARD R. LLOYD
United States Magistrate Judge

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28