

1 In a separately filed Motion for Stay of Removal, Martinez asks for a stay of his
2 removal, so that he may “challenge the illegality of the Final Administrative Order which
3 was issued in his case.” Dkt. No. 4 at 1.

4 No defendants have yet appeared in this action.

5 The Court now issues this Order to Show Cause why the petition should not be
6 dismissed for lack of jurisdiction. In 2005, Congress enacted the REAL ID Act of 2005,
7 which expanded the jurisdiction of the circuit courts over final orders of removal and
8 eliminated district court jurisdiction. *See Alvarez-Barajas v. Gonzales*, 418 F.3d 1050,
9 1052 (9th Cir. 2005). The Act eliminated habeas jurisdiction, including under 28 U.S.C. §
10 2241, over final orders of deportation, exclusion, or removal. *Id.* The central jurisdictional
11 provision of the Act is 8 U.S.C. § 1252(b)(9):

12 Judicial review of all questions of law and fact, including interpretation and
13 application of constitutional and statutory provisions, arising from any action taken or
14 proceeding brought to remove an alien from the United States under this subchapter
15 shall be available only in judicial review of a final order under this section. Except as
16 otherwise provided in this section, no court shall have jurisdiction, by habeas corpus
17 under section 2241 of Title 28 or any other habeas corpus provision, by section 1361
18 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to
19 review such an order or such questions of law or fact.

20 8 U.S.C. § 1252(b)(9).

21 Accordingly, petitioner must show cause in writing by December 10, 2014, at noon
22 why this action should not be dismissed for lack of jurisdiction. *See Rogelio Barragan-*
23 *Campos v. Michael Chertoff*, ECF No. 06-cv-07057 CRB, Dkt. No. 31 (N.D. Cal. Jan. 10,
24 2007) (dismissing challenge to deportation order for lack of jurisdiction). If the Court
25 lacks jurisdiction, then it does not possess authority to rule on petitioner’s application for
26 order to show cause and motion for stay of removal. Dkt. Nos. 3, 4.

27 The Court will hold a hearing on the OSC on December 10, 2014, 3:00 p.m. in San
28 Francisco Courtroom A. Petitioner’s counsel may participate by telephone by contacting
the Court’s deputy in advance at (415) 522-2039.

1 IT IS SO ORDERED.

2 Date: December 8, 2014



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4 Nathanael M. Cousins
United States Magistrate Judge

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