UNITED STATES DISTRICT COURT		
NORTHERN DISTRICT OF CALIFORNIA		
SAN JOSE DIVISION		
NC		
W CAUSE WHY		
SHOULD NOT BE LACK OF		
Oscar Alan Martinez petitions for a Writ of Habeas Corpus vacating his Final Order		
of Administrative Removal. In his petition, Martinez asserts that he is a citizen and national		
of Mexico and he is presently being detained by U.S. immigration authorities at a facility in		
Elk Grove, California. Dkt. No. 1 \P 7. The petition further asserts that Martinez is subject		
to a Final Administrative Removal Order. Dkt. No. 1 \P 11. In both his "CLAIM FOR		
CLAIM FOR		
s "CLAIM FOR Final Order of		

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Case No. 14-CV-05253 NC ORDER TO SHOW CAUSE

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

No defendants have yet appeared in this action.

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

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

8 U.S.C. § 1252(b)(9).

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

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

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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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