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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOEL JUDULANG,

Petitioner,

vs.

MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security;
ALBERTO GONZALES, Attorney General;
ROBIN F. BAKER, Director of San Diego
Field Office, U.S. Immigration and Customs
Enforcement; GABRIELA PACHECO,
Office in Charge

Respondents.

CASE NO. 07-CV-1414 – IEG (CAB)

**ORDER: 1) GRANTING
APPLICATION TO PROCEED IN
FORMA PAUPERIS; 2)
GRANTING MOTION FOR
APPOINTMENT OF COUNSEL;
and 3) ORDERING
RESPONDENTS TO SHOW
CAUSE WHY PETITIONER’S
REQUEST FOR HABEAS CORPUS
RELIEF PURSUANT TO 28 U.S.C.
§2241 SHOULD NOT BE
GRANTED**

[Doc. Nos. 1-3]

On August 2, 2007, Joel Judulang (“petitioner”) filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging his detention by Michael Chertoff, Alberto Gonzales, Robin F. Baker, and Gabriela Pacheco (collectively “respondents” or “the government”). (Doc. No. 1.) Simultaneously, petitioner also filed an application to proceed *in forma pauperis* (“IFP”) and a motion for appointment of counsel. (Doc. Nos. 2-3.)

According to petitioner, he is a native of the Philippines and lawful permanent resident who entered the respondent’s custody on July 7, 2005 at the ICE El Centro Detention Center and has

1 remained in custody since that time. (Petition at 2.) An immigration judge ordered petitioner removed
2 from the United States on September 28, 2005. (Janet Tung Declaration In Support of Motion (“Tung
3 Decla. ISO Motion”) at ¶ 10.) Petitioner filed a petition for review of the immigration judge’s
4 removal order, which is currently pending before the Ninth Circuit Court of Appeals. (*Id.*) According
5 to plaintiff, his prolonged detention while his immigration petition is being processed is a
6 constitutional violation. (Petition at 2-8.) Plaintiff requests an order releasing him from custody under
7 the supervision conditions set forth 8 U.S.C. §1231(a)(3). (Petition at 9.)

8 A court may authorize the commencement of a suit without prepayment of fees if the petitioner
9 submits an affidavit, including a statement of all his or her assets, showing that he or she is unable to
10 pay the fees. See 28 U.S.C. § 1915(a). Petitioner submitted such an affidavit in support of his IFP
11 application. Petitioner submitted such an affidavit in support of his IFP application. In his affidavit,
12 petitioner states that he does not have a source of income, any significant savings or assets, and no
13 funds in his prison account. (Doc. No. 3 at 4.) In light of the fact that petitioner has no real assets or
14 significant monthly income, the Court finds that he meets the indigency requirements of section
15 1915(a). Accordingly, the Court **GRANTS** petitioner’s request for IFP status. The Clerk of Court
16 **shall file the petition for writ of habeas corpus** without prepayment of the filing fee.

17 In addition, petitioner moves for appointment of counsel pursuant to 18 U.S.C. §3006A. (Doc.
18 No. 3.) The Federal Defenders of San Diego, Inc., is ready and able to assist petitioner in this matter.
19 (Tung Decla. ISO Motion ¶¶ 2, 3.) Section 3006A(a)(2)(b) provides that when the court determines
20 that “the interests of justice so require,” the court may appoint counsel for financially eligible
21 individuals who are seeking relief under 28 U.S.C. §2241. Having carefully considered the arguments
22 raised in petitioner’s motion, the court finds that the appointment of counsel is appropriate in this case.
23 The court therefore **GRANTS** petitioner’s motion for appointment of counsel and **APPOINTS**
24 Federal Defendants of San Diego, Inc. to represent him.

25 Upon receipt of the petition, and finding that the matter is not appropriate for summary
26 disposition, the Court furthermore **ORDERS** respondents to show cause why the petition should not
27 be granted. Respondents shall have until **Monday, September 17, 2007** to file and personally serve
28 an answer to the petition. Petitioner may file a traverse by no later than **Tuesday, October 9, 2007**.

1 Unless the Court orders otherwise, the matter will be taken under submission and decided without oral
2 argument. Local Rule 7.1(d)(1).

3 **IT IS SO ORDERED.**

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5 **DATED: August 14, 2007**

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7 **HON. IRMA E. GONZALEZ, Chief Judge**
8 United States District Court
9 Southern District of California
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