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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PEDRO CURIEL-HERRERA,

Petitioner,

vs.

ERIC HOLDER, et al.,

Respondents.

Case No. 2:14-cv-01248-GMN-NJK

ORDER

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Petitioner has submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (#1) and an emergency motion for stay of removal (#2). Petitioner argues that immigration officials have not complied with the requirements of 8 C.F.R. § 241.8, which sets for the procedures for reinstatement of an order of removal, because he was not given a written notice of the reinstatement of his order of removal and because he was not given an interview to assert his claim of asylum. Exhibit 1 to the petition indicates that petitioner previously was ordered removed from the United States.¹

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This court does not have jurisdiction to consider the habeas corpus petition. A reinstatement order “qualifies as an order of removal that can only be challenged in a petition for review filed directly with [the court of appeals].” Morales-Izquierdo v. Department of Homeland Sec., 600 F.3d 1076, 1081-82 (9th Cir. 2010) (citing 8 U.S.C. § 1252(a)(5)). Furthermore, “any ‘questions of law and fact’ arising from an order of removal must be raised in a petition for review of that order.” Id. (quoting 8 U.S.C. § 1252(b)(9)). This court will transfer the action to the court of appeals pursuant to 28 U.S.C. § 1631.

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The court will take no action upon the emergency motion for stay of removal (#2) because it lacks jurisdiction over the subject matter of this action.

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¹Petitioner does not allege the circumstances of the order in the petition, and he has not attached a copy of the order to the petition.

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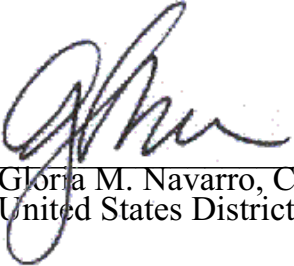
IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1631, this action is **TRANSFERRED** to the United States Court of Appeals for the Ninth Circuit.

IT IS FURTHER ORDERED that the Clerk of the Court shall transmit the entire case file to the court of appeals simultaneous with this transfer order, consistent with current practice regarding transmission of case files to the court of appeals under CM/ECF.

IT IS FURTHER ORDERED that no action will be taken by this court on the emergency motion for stay of removal (#2).

IT IS FURTHER ORDERED that the clerk of the court shall administratively close this action.

DATED this 8th day of August, 2014.



Gloria M. Navarro, Chief Judge
United States District Court