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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ERNESTO CACERES ALEMAN,

Petitioner,

vs.

HUMPHRIES, *et al.*,

Respondents.

3:10-cv-00105-LRH-RAM

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court for initial review of the petition. The filing fee has been paid.

Petitioner is in Nevada state custody pursuant to a state judgment of conviction, and he names his state custodian as a respondent. His petition, however, is directed to a federal immigration detainer. Petitioner states that he “would like to be seen in I.N.S. or I.C.E. court to plead my case.” He alleges that he came to the United States from El Salvador fourteen years ago and that he was granted political asylum. He seeks an opportunity to become a United States citizen.

The Court does not have jurisdiction over the petition directed to the detainer because an immigration detainer does not place a petitioner in custody for purposes of federal habeas jurisdiction under 28 U.S.C. § 2241. *See, e.g., Campos v. Immigration and Naturalization Service*, 62 F.3d 311, 314 (9<sup>th</sup> Cir. 1995). Moreover, a claim by a non-citizen seeking to apply for consideration for possible United States citizenship in any event is not cognizable in habeas corpus.

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1 IT THEREFORE IS ORDERED that the Clerk of Court shall file the petition and that the  
2 petition is DISMISSED without prejudice for lack of jurisdiction.

3 The Clerk of Court shall enter final judgment accordingly, dismissing the action without  
4 prejudice.

5 DATED this 17<sup>th</sup> day of March, 2010.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE