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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT SEATTLE

6 HERMELANDO MONGE PIEDRA,
et al.

7 Petitioners,

8 v.

9 DEPARTMENT OF HOMELAND
10 SECURITY, et al.

11 Defendants.

C14-457 TSZ

ORDER

12 THIS MATTER comes before the Court on the Report and Recommendation
13 (“R&R”) of the Honorable Mary Alice Theiler, Chief United States Magistrate Judge,
14 docket no. 26. The R&R recommends that this matter, which was captioned as a civil
15 rights class action, but was docketed as a petition for writ of habeas corpus pursuant to 28
16 U.S.C. § 2241, be dismissed without prejudice because the individual *pro se* petitioners,
17 who are not attorneys authorized to practice before this Court, may not pursue a class
18 action or otherwise litigate on behalf of others, have not made the requisite showing for
19 appointment of counsel, and did not sign the operative pleading. The Court agrees with
20 the R&R that the original posture of this case was improper.

21 Before the R&R was entered, the Clerk generated letters to each of the 30 named
22 petitioners indicating that they had failed to submit a proper *in forma pauperis* (“IFP”)
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1 form. See docket no. 5. Fifteen of these letters were returned as undeliverable because
2 the individuals to whom they were addressed were not at the Northwest Detention Center
3 in Tacoma, Washington. The copies of the R&R mailed to these 15 petitioners were also
4 returned as undeliverable. See docket nos. 27-31, 33-38, 40-41, & 43-44. In addition, the
5 copies of the R&R mailed to three other petitioners were returned, resulting in a total of
6 18 undelivered copies of the R&R. See docket nos. 32, 39, & 42. After the deadline
7 expired for filing objections to the R&R, eight petitioners, including two whose mail was
8 returned as undeliverable, filed amended complaints, docket nos. 45-52, which no longer
9 assert a class action.

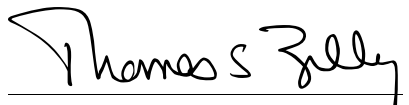
10 As to these eight petitioners, namely Mario Torres Armas, Jose Vladimir Gaytan
11 Venegas, Benito Garcia Celis, Favio Hernandez Guzman, Jesus Lule Arerrando, Saul
12 Bello Vargas, Hermelando Monge Piedra, and Joel Enrique Rivera Palma, the Court
13 DECLINES to adopt the R&R and hereby REFERS the matter to Chief Magistrate Judge
14 Theiler for further proceedings. With regard to the other 22 petitioners,¹ the Court
15 ADOPTS the R&R, DISMISSES the claims of such petitioners without prejudice, and
16 DENIES any IFP applications of such petitioners as moot. With respect to petitioner
17 Angel Perez Martinez, the Clerk is DIRECTED to refund the \$5 filing fee received on
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20 ¹ The claims of the following petitioners are dismissed without prejudice: Cipriano Pacheco Espana,
21 Ramon Mendoza Pascual, Victor Hugo Moreno Garcia, Angel Perez Martinez, Jose Luz Pineda Andrade,
22 Jose Perez Machic, Edwin Aguilar Leon, Sergio Lazano Camarena, Claudio Lopez Ruiz, Armando
23 Gonzalez Lopez, Arnuflo Angelino Chavez Ramirez, Enrique Palmo Mendoza, Miguel Angel Becerra
Cisneros, Vincente De Jesus Vasquez Acevedo, Eliazar Angulo Cervantes, Francisco Barajas Herrera,
Juan Jaime Cruz Guardado, Francisco Arturo Osuna Contreras, Julio Cesar Ruiz Arcienega, Alejandro
Flores Panso, Roberto Carlos Raimundo Austudillo, and Ezekiel Guzman Zarate.

1 April 8, 2014. The Clerk is further DIRECTED to send a copy of this Order to each
2 petitioner *pro se* and to Chief Magistrate Judge Theiler.

3 IT IS SO ORDERED.

4 Dated this 26th day of June, 2014.

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7 Thomas S. Zilly
8 United States District Judge
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