

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

WO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Amilcar Aicardo Rojas-Paz,)
)
 Petitioner,)
 vs.)
 Michael B. Mukasey, et al.,)
 Respondents.)

No. CV-07-2137-PHX-PGR (ECV)

ORDER

Pending before the Court is the petitioner’s request, filed pursuant to 28 U.S.C. § 2241, that he be released from immigration detention pending his removal to Colombia. According to the record, the petitioner has been detained since January 6, 2006, and that his appeal of the removal order has been pending before the Ninth Circuit Court of Appeals since October 27, 2006. On October 29, 2008, Magistrate Judge Voss issued a Report and Recommendation in which he recommended that the petitioner be released from detention unless the Government provides him with a timely hearing before an immigration judge with the power to grant him bail, unless the Government establishes that the petitioner is either a flight risk or a danger to the community.

Having considered *de novo* the Report and Recommendation notwithstanding that no party has filed any objection to the Report and

1 Recommendation, the Court finds that due process requires that the petitioner be
2 provided with an individualized bond hearing to determine whether his continued
3 detention is necessary. See e.g., Makaj v. Crowther, No. 07-17332 (9th Cir. Sept.
4 23, 2008); Casas-Castrillon v. Dept. of Homeland Security, 535 F.3d 942 (9th
5 Cir.2008). Therefore,

6 IT IS ORDERED that the Magistrate Judge's Report and Recommendation
7 (doc. #16) is accepted and adopted by the Court.

8 IT IS FURTHER ORDERED that the petitioner's Petition Under 28 U.S.C.
9 § 2241 for a Writ of Habeas Corpus by a Person in Federal Custody is granted to
10 the extent that the respondents shall release the petitioner from detention unless,
11 no later than March 13, 2009, the petitioner is provided a hearing before an
12 Immigration Judge with the power to grant him bail, and either bail is granted or
13 the United States establishes that he is a flight risk or will be a danger to the
14 community. The Clerk of the Court shall enter judgment accordingly.

15 DATED this 14th day of January, 2009.

16
17
18 
19 Paul G. Rosenblatt
United States District Judge