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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Petr Mikhaylovich Melster,
Petitioner,

vs.

Katrina Kane,
Respondent.

) No. CV 08-2126-PHX-MHM (ECV)

) **ORDER**

_____)
Petitioner Petr Mikhaylovich Melster (A73-377-351), who is confined in the Florence Service Processing Center in Florence, Arizona, has filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. The filing fee has been paid. The Court will require Respondent to answer the Petition.

I. Petition

Petitioner alleges that immigration officials are holding him in detention pending his removal to Iraq. Petitioner argues that he is entitled to release from custody because his detention with no prospect that his removal will be effected in the reasonably foreseeable future is not authorized by law. See Zadvydas v. Davis, 533 U.S. 678 (2001) (when there is no reasonable likelihood that a foreign government will accept an alien’s return in the reasonably foreseeable future, the INS may not detain the alien for more than the presumptively reasonable period of six months); Clark v. Martinez, 543 U.S. 371 (2005) (extending the holding in Zadvydas to inadmissible aliens). The Court will require Respondent to answer the Petition.

1 **II. Warnings**

2 **A. Address Changes**

3 Petitioner must file and serve a notice of a change of address in accordance with Rule
4 83.3(d) of the Local Rules of Civil Procedure. Petitioner must not include a motion for other
5 relief with a notice of change of address. Failure to comply may result in dismissal of this
6 action.

7 **B. Copies**

8 Petitioner must serve Respondent, or counsel if an appearance has been entered, a
9 copy of every document that he files. Fed. R. Civ. P. 5(a). Each filing must include a
10 certificate stating that a copy of the filing was served. Fed. R. Civ. P. 5(d). Petitioner also
11 must submit an additional copy of every filing for use by the Court. LRCiv 5.4. Failure to
12 comply may result in the filing being stricken without further notice to Petitioner.

13 **C. Possible dismissal**

14 If Petitioner fails to timely comply with every provision of this Order, including these
15 warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet,
16 963 F.2d 1258, 1260-61 (9th Cir. 1992) (district court may dismiss action for failure to
17 comply with any order of the Court).

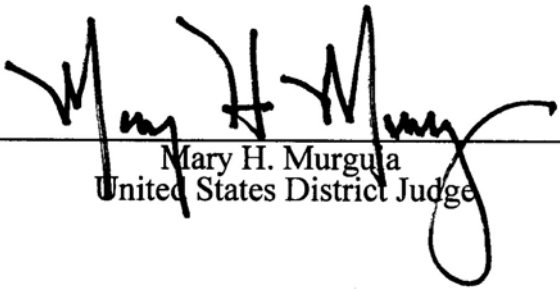
18 **IT IS ORDERED:**

19 (1) The Clerk of Court must serve a copy of the Summons, Petition, and this Order
20 upon the United States Attorney for the District of Arizona by certified mail addressed to the
21 civil process clerk at the office of the United States Attorney pursuant to Rule 4(i)(1)(A) of
22 the Federal Rules of Civil Procedure. The Clerk of Court also must send by certified mail
23 a copy of the Summons, Petition and this Order to the United States Attorney General
24 pursuant to Rule 4(i)(1)(B) and to Respondent pursuant to Rule 4(i)(2).

25 (2) Respondent must answer the Petition within 20 days of the date of service.
26 Respondent must not file a dispositive motion in place of an answer without first showing
27 cause as to why an answer is inadequate. Petitioner may file a reply within 20 days from the
28 date of service of the answer.

1 (3) This matter is referred to Magistrate Judge Edward C. Voss pursuant to Rules
2 72.1 and 72.2 of the Local Rules of Civil Procedure for further proceedings and a report and
3 recommendation.

4 DATED this 15th day of January, 2009.

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9 Mary H. Murgula
10 United States District Judge
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