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

Jateen Bhatt,
Petitioner,
vs.
Katrina Kane, et al.,
Respondents.

No. CV 12-0554-PHX-GMS (MEA)

ORDER

Petitioner Jateen Bhatt (A096-568-616), who is represented by counsel, has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. The Court will require Respondents to answer the Petition.

Petitioner is a native and citizen of Tanzania who has been a lawful permanent resident of the United States since 2008. On January 6, 2010, the Department of Homeland Security charged him with removability under 8 U.S.C. §§ 1227(a)(2)(A)(i)(I) and 1227(a)(2)(A)(iii) as an alien convicted of a crime of moral turpitude and an aggravated felony based on his California grand theft conviction. On May 10, 2011, Immigration and Customs Enforcement took him into custody. January 26, 2011, an Immigration Judge (IJ) entered an order for Petitioner’s removal from the United States under 8 U.S.C. § 1227(a)(2)(A)(iii) as an alien convicted of an aggravated felony. Petitioner’s appeal of the IJ’s decision is still pending before the Board of Immigration Appeals (BIA).

On November 25, 2011, the IJ denied Petitioner’s request for a redetermination of his custody status for lack of jurisdiction because Petitioner is subject to mandatory detention

1 under 8 U.S.C. § 1226(c). Petitioner's appeal from that order is pending before the BIA.
2 Petitioner claims that his lengthy detention without bond is not authorized by the
3 Immigration and Nationality Act. He also argues that his continued detention violates his
4 substantive and procedural due process rights under the Fifth Amendment. He seeks a
5 declaration that his current detention is unlawful and an order requiring Respondents to
6 provide him with a custody hearing before neutral decision-maker with the authority to grant
7 him release on bond. The Court will require Respondents to answer the Petition.

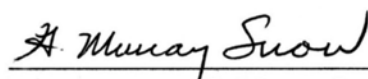
8 **IT IS ORDERED:**

9 (1) The Clerk of Court must serve a copy of the Summons, Petition (Doc. 1),
10 Memorandum of Points and Authorities (Doc. 2), and this Order upon the United States
11 Attorney for the District of Arizona by certified mail addressed to the civil process clerk at
12 the office of the United States Attorney pursuant to Rule 4(i)(1)(A) of the Federal Rules of
13 Civil Procedure. The Clerk of Court also must send by certified mail a copy of the
14 Summons, Petition, and this Order to the United States Attorney General pursuant to Rule
15 4(i)(1)(B) and to Respondents pursuant to Rule 4(i)(2)(A).

16 (2) Respondents must answer the Petition within 20 days of the date of service.
17 Respondents must not file a dispositive motion in place of an answer without first showing
18 cause as to why an answer is inadequate. Petitioner may file a reply within 20 days from the
19 date of service of the answer.

20 (3) This matter is referred to Magistrate Judge Mark E. Aspey pursuant to Rules
21 72.1 and 72.2 of the Local Rules of Civil Procedure for further proceedings and a report and
22 recommendation.

23 DATED this 5th day of April, 2012.

24 
25 _____
26 G. Murray Snow
27 United States District Judge
28