UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6968

CRAIG JOHN PASICOV, a/k/a John Craig Pasicov,

Petitioner – Appellee,

v.

ERIC H. HOLDER, JR.; JANET NAPOLITANO; JOHN T. MORTON,

Respondents - Appellants.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Anthony J. Trenga, District Judge. (1:11-cv-00487-AJT-IDD)

Submitted: June 22, 2012 Decided: July 17, 2012

Before KEENAN, WYNN, and FLOYD, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Neil H. MacBride, United States Attorney, Dennis C. Barghaan, Jr., Assistant United States Attorney, Alexandria, Virginia; Tony West, Assistant Attorney General, Elizabeth J. Stevens, Assistant Director, Gisela A. Westwater, OFFICE OF IMMIGRATION LITIGATION, Washington, D.C., for Appellants. Joseph Peter Drennan, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Craig John Pasicov, a native and citizen of Canada who became a lawful permanent resident of the United States in 1977, was convicted in 2009 of credit card theft, credit card forgery, and credit card fraud. He was sentenced to two terms of ten years' imprisonment, and one term of five years' imprisonment, with all of the sentences suspended. In 2011, Pasicov was arrested and served by immigration authorities with a Notice to Appear charging him with removability as an aggravated felon and for having been convicted of a crime of moral turpitude.

Pasicov sought bond in the immigration court, which was denied on the ground that he is criminal alien subject to mandatory detention pursuant to 8 U.S.C. § 1226(c) (2006). Pasicov appealed, and also filed a petition for a writ of habeas corpus in the district court requesting a bond hearing, and contending that he is not subject to mandatory detention because he was not taken into custody by immigration authorities immediately upon his release from state criminal custody. The district court granted the habeas petition in part and remanded the case to the immigration court with instructions to conduct an individualized bond hearing within ten days. Pursuant to that hearing, Pasicov was granted bond and released, and his removal proceedings remain pending. The Respondents appealed the district court's partial grant of habeas relief, contending

that mandatory detention under § 1226(c) applies to Pasicov notwithstanding the fact that he was not taken into immigration custody immediately upon his release from state custody.

We have now squarely addressed this issue in Hosh v. Lucero, __ F.3d __, No. 11-1763 (4th Cir. May 25, 2012), holding that aliens who are not immediately detained by immigration authorities upon their release from state custody are indeed subject to mandatory detention pursuant to § 1226(c). Accordingly, we vacate the district court's order granting partial habeas relief to Pasicov and remand for further proceedings consistent with our decision in Hosh. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED