

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT OWENSBORO

GLADIS CHAVEZ-PINEDA

PETITIONER

v.

NO. 4:25-CV-49-RGJ

KRISTI NOEM, in her Official Capacity as
Secretary, Department of Homeland Security;
SAMUEL OLSON, in his Official Capacity as
Field Office Director for U.S. Immigration and
Customs Enforcement;
JASON WOOSLEY, in his Official Capacity as
Grayson County Jailer

RESPONDENTS

RESPONDENTS' STATUS REPORT

Respondents, Kristi Noem, in her official capacity as Secretary for the
Department of Homeland Security, and Samuel Olson, in his official capacity as Field
Office Director for U.S. Immigration and Customs Enforcement (ICE), notify the Court
of the following:

INTRODUCTION

Petitioner's removal from the United States to Honduras is imminent. Petitioner
is going to be removed to her native country of Honduras because on July 7, 2025, the
Seventh Circuit Court of Appeals denied Petitioner's motion to stay her removal.
Petitioner filed an emergency motion to reconsider on July 10, 2025, and the Seventh
Circuit denied that motion on the same day. Petitioner's order of removal is now
"administratively final," and Petitioner is in the "removal period." 8 U.S.C.
§ 1231(a)(1)(B)(i). Detention of an alien in the "removal period" is mandatory, *id.*
§ 1231(a)(2)(A), and, if practicable, removal should be completed within 90 days of

commencement of the removal period, § 1231(a)(1)(A). Petitioner's appeal to the Seventh Circuit of the Board of Immigration Appeals' opinion affirming the immigration judge's decision denying her asylum claim will remain pending even after she is removed.

RELEVANT FACTUAL AND LEGAL BACKGROUND

- Petitioner, a native of Honduras, illegally entered the United States from Mexico in June 2015.
- Petitioner was found in Texas on June 16, 2015, a few miles north of the United States' border, and detained.
- Petitioner was initially found to have a credible fear of persecution, but she was later determined by an immigration judge and the Board of Immigration Appeals (BIA) to be ineligible for asylum.
- Petitioner appealed the BIA's denial of her asylum claim to the Seventh Circuit Court of Appeals. *Chavez-Pineda v. Bondi*, 25-1278, DN 1 (7th Cir. Feb. 20, 2025).
- On June 4, 2025, Petitioner was taken into custody by ICE officials because her removal order was "administratively final" under 8 U.S.C. § 1231(a)(1)(B)(i), meaning she was in the "removal period." [See **Exhibit 1**, Carly Schilling Declaration, ¶ 10.]
- 8 U.S.C. § 1231(a)(2) states: "During the removal period, the Attorney General shall detain the alien."
- On June 5, Petitioner filed a motion to stay her removal with the Seventh Circuit. See *Chavez-Pineda*, 25-1278, DN 11 (7th Cir. June 5, 2025). The Seventh Circuit

granted Petitioner a temporary stay until the motion to stay was fully briefed and resolved. *Id.*, DN 12 (7th Cir. June 5, 2025). The Seventh Circuit's decision to temporarily stay Petitioner's removal moved her out of § 1231(a)(1)(B)(i)'s "removal period." See *D.A.F. v. Stewart Det. Ctr.*, 2020 U.S. Dist. LEXIS 254054, at *2-3 (M.D. Ga. July 24, 2020).

- When Petitioner moved out of the "removal period" due to the Seventh Circuit's temporary stay, she was detained by ICE under 8 U.S.C. § 1225(b)(1)(B)(ii), which states that an alien who has been found to have a credible fear of persecution "shall be detained for further consideration of the application of asylum." See *Kolesnikov v. Noem*, 2025 U.S. Dist. LEXIS 113058, at *2-3 (D. Ariz. June 13, 2025).
- On July 7, 2025, the Seventh Circuit denied Petitioner's motion for stay of removal. *Chavez-Pineda*, 25-1278, DN 17 (7th Cir. July 7, 2025).¹
- Consequently, Petitioner's final order of removal was again "administratively final," and she re-entered the "removal period." See *J.L. v. Decker*, 2024 U.S. Dist. LEXIS 10894, at *6-15 (S.D.N.Y. Jan. 22, 2024) (explaining that an individual can enter a "removal period" more than one time based on a circuit court's decision regarding a motion to stay).
- Detention under 8 U.S.C. § 1231(a)(2) is mandatory for aliens in the "removal period."
- On July 10, Petitioner filed her amended habeas petition.

¹ One of Petitioner's counsel in this case is also an attorney of record in Petitioner's case pending before the Seventh Circuit.

- On July 10, the undersigned learned about the Seventh Circuit's decision and that Petitioner filed an emergency motion to reconsider the denial of Petitioner's motion to stay. *Chavez-Pineda*, 25-1278, DN 18 (7th Cir. July 10, 2025). The Seventh Circuit promptly denied Petitioner's emergency motion. *Id.*, DN 19 (7th Cir. July 10, 2025).
- Also on July 10, the undersigned learned that, following the Seventh Circuit's denial of Petitioner's motion to stay, ICE began the process to remove Petitioner to Honduras. Petitioner is no longer in the Grayson County Detention Center or the Western District of Kentucky. Her removal to Honduras is imminent.
- Shortly after ICE provided that update on July 10, the undersigned emailed that information to Petitioner's counsel.
- Removal of Petitioner while her petition for review is pending with the Seventh Circuit is permitted under 8 U.S.C. § 1252(b)(3)(B).
- 8 U.S.C. § 1252(b)(3)(B) states that unless a circuit court grants a stay of removal, once a final order of removal is administratively final—i.e., after the Board of Immigration Appeals has dismissed an appeal—an alien can be removed. A petition for review filed with the circuit court, like Petitioner has filed, remains pending even if an individual is removed. *See Roa v. Garland*, 2024 U.S. App. LEXIS 21006, at *1-5 (6th Cir. Aug. 19, 2024) (denying a motion to stay removal while a petition for review was pending); *see also Dorville v. Searls*, 2023 WL 4107981, 2023 U.S. Dist. LEXIS 107390, at *12-13 (W.D.N.Y. June 21, 2023)

(explaining how the law related to stays of removal and petitions for review has been amended).

- After Petitioner is removed to Honduras, her habeas petition will be moot.

Nasreldeen v. ICE Detroit Field Office, 2023 WL 2965709, 2023 U.S. Dist. LEXIS 66236, at *2-5 (W.D. Mich. Apr. 17, 2023) (“Petitioner’s request for release from custody became moot on January 26, 2023, when he was removed from the United States and was no longer in ICE custody.”).

CONCLUSION

The Seventh Circuit reviewed Petitioner’s motion to stay her removal, and it denied her motion. Petitioner’s detention and scheduled removal are authorized by law.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2025, I filed this document via CM/ECF, which will automatically provide service to all counsel of record.

KYLE G. BUMGARNER
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/s/ Timothy D. Thompson
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