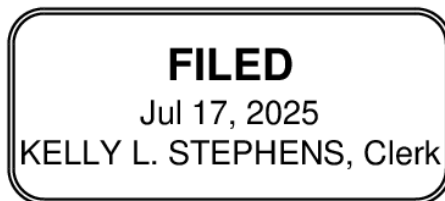


No. 25-1632

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT



ROSA MARIA PENA GARCIA, )  
 )  
 Plaintiff-Appellant, )  
 )  
 v. )  
 )  
 U.S. DEPARTMENT OF HOMELAND )  
 SECURITY, et al., )  
 )  
 Defendants-Appellees. )

ORDER

Before: CLAY, THAPAR, and READLER, Circuit Judges.

Plaintiff Rosa Maria Pena Garcia is a Mexican national subject to a final order of removal. In 2023, she received permission to voluntarily depart from the United States. But she didn't do so. Instead, she remained in the country. After several years, the Department of Homeland Security notified Pena Garcia that she would be removed and gave her the option of scheduling her departure. So Pena Garcia bought an airplane ticket to Mexico. Now, she seeks a stay of her removal.

But this court doesn't have the power to grant that stay. Congress has prohibited courts from ordering "a stay of an alien's removal pending consideration of any claim with respect to voluntary departure." 8 U.S.C. § 1229(c). Because Pena Garcia's claims center on an alleged violation of a voluntary departure order, her request for a stay concerns the same issue Congress prohibited courts from adjudicating. While there's little doubt that Pena Garcia desires to remain

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in the United States for admirable reasons—caring for family members—this court can't issue the stay she requests.

Accordingly, the motion to stay removal is **DENIED**.

CLAY, J., dissenting: Judge Clay would also deny the motion to stay removal, but dissents from the above order which dismisses Plaintiff's motion on jurisdictional grounds.

ENTERED BY ORDER OF THE COURT

  
\_\_\_\_\_  
Kelly L. Stephens, Clerk