

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 07-2422

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Angelina Codina,

Appellant,

v.

Michael Chertoff, Secretary of the  
United States Department of Homeland  
Security; Mark Cangemi, Director of  
Detention and Removal, Minnesota  
District, United States Immigration and  
Customs Enforcement; Pat Carr, Jail  
Commander of Sherburne County Jail,

Appellees.

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Appeal from the United States  
District Court for the  
District of Minnesota.

[UNPUBLISHED]

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Submitted: July 10, 2008  
Filed: July 24, 2008

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Before WOLLMAN, SMITH, and GRUENDER, Circuit Judges.

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PER CURIAM.

Angelina Codina, a native of Uruguay and citizen of Canada, appeals the district court's<sup>1</sup> dismissal of her 28 U.S.C. § 2241 petition for a writ of habeas corpus. For the reasons stated below, we affirm.

To the extent Codina's petition challenged her detention based on alleged procedural and clerical flaws in her removal proceedings, it essentially challenged her removal order, which the district court lacked jurisdiction to review in a habeas proceeding. See 8 U.S.C. § 1252(a)(5) ("sole and exclusive means" for challenging order of removal is to file petition for review with appropriate court of appeals); De Ping Wang v. Dep't of Homeland Sec., 484 F.3d 615, 618 (2d Cir. 2007) (REAL ID Act of 2005 eliminated availability of habeas petitions as separate means of obtaining judicial review of final orders of removal); cf. Haider v. Gonzales, 438 F.3d 902, 910 (8th Cir. 2006) (petitioner's constitutional challenges to sufficiency of notice of removal hearing was in effect challenge to ultimate order of removal, thus district court's proper course of action was to transfer habeas petition to circuit court under REAL ID Act).

To the extent, however, Codina's section 2241 petition challenged her detention based on Zadvydas v. Davis, 533 U.S. 678 (2001), we agree with the district court that the petition lacked merit. The record establishes that, at the time the district court dismissed Codina's petition, her removal had been stayed by the Second Circuit, and she had a petition for review of her removal order pending before that court. Thus, she was not yet under a final order of removal, and no violation of Zadvydas could have occurred. See 8 U.S.C. § 1231(a)(1)(B)(ii) (if removal order is judicially reviewed and reviewing court orders stay of removal, removal period begins on date of court's final order); Zadvydas, 533 U.S. at 689, 701 (aliens ordered removed may not be detained indefinitely; alien is entitled to release if, after presumptively

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<sup>1</sup>The Honorable Joan N. Ericksen, United States District Judge for the District of Minnesota, adopting the report and recommendations of the Honorable Franklin L. Noel, United States Magistrate Judge for the District of Minnesota.

reasonable six-month period to effect removal, there is “no significant likelihood of removal in the reasonably foreseeable future”); Abdullah v. Hedrick, 392 F.3d 957, 959 (8th Cir. 2004) (de novo review of dismissal of § 2241 habeas petition).

Finally, we decline to address Codina’s assertion raised for the first time on appeal that the district court should have released her on bond or granted her an outright release pending the disposition of her petition before the Second Circuit. See Stone v. Harry, 364 F.3d 912, 914-15 (8th Cir. 2004).

The judgment is affirmed. Codina’s pending motions are denied as moot.

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