

Highlights of the Winter 2025 Edition

This edition includes discussion of U.S. Supreme Court rulings as well as federal appellate court and Board of Immigration Appeals decisions and administrative actions, including:

- *Riley v. Bondi*: The Supreme Court held that a final administrative removal order is the “final order of removal” triggering the 30-day deadline for noncitizens to file a petition for review and that an order by the BIA denying relief under the Convention Against Torture is not a “final order of removal” and does not affect the validity of a previously issued order of removal.
- *Monsalvo v. Bondi*: The Supreme Court held that when the deadline for voluntary departure (giving “60 days” to depart) falls on a weekend or holiday, it extends to the next business day and that a motion to reopen filed on the next business day is therefore timely.
- *Noem v. Vasquez Perdomo*: The Supreme Court stayed a ruling on a preliminary injunction by a federal district court judge in Los Angeles, California, that had restricted the ability of federal agents to make immigration stops based solely on a combination of any of the following four factors: (1) apparent race or ethnicity, (2) speaking Spanish or having an accent, (3) being present at a location where undocumented immigrants “are known to gather” (e.g., pick-up spots for day laborers), and (4) working at certain jobs, such as landscaping or construction.
- *D.V.D. v. U.S. Department of Homeland Security*: A federal district court judge found that the noncitizens challenging the Trump Administration’s practice of third-country removals without first providing notice and an opportunity to be heard had satisfied the requirements for class certification and were likely to succeed on the merits of their claims, reasoning that the initial removal proceedings did not satisfy due process for subsequent removal to a third country. The Supreme Court stayed the preliminary injunction that had been granted by the district court; the matter remains pending.
- *Hsieh v. Bondi*: The Fourth Circuit held that a federal conviction for inducing a minor to engage in illegal sexual activities under 18 U.S.C.A. § 2422(b) qualifies categorically as both an aggravated felony for sexual abuse of a minor and as a “crime of child abuse” under INA § 237(a)(2)(E)(i) [8 U.S.C.A. § 1227(a)(2)(E)(i)].
- *W.M.M. v. Trump*: The Fifth Circuit initially granted a preliminary injunction preventing removal under the Alien Enemies Act, finding that whether an invasion or predatory incursion has occurred is a justiciable issue and concluded that no such invasion or predatory incursion had occurred. The court subsequently granted a request for a rehearing en banc, which is still pending.
- *Castillo v. Bondi*: The Sixth Circuit held that the statutory language of the child abuse deportability ground does not cover individuals who were naturalized citizens at the time of the conviction because the plain text refers to “aliens” and the grammar indicates that the person had to be an “alien” at the time of conviction.
- *Bent v. Garland*: The Ninth Circuit held that the Board of Immigration Appeals erred in finding that a California statute allowed convictions to be vacated solely to alleviate immigration consequences.
- *Matter of Li*: The Board of Immigration Appeals ruled that a noncitizen who is arrested “while arriving” in the United States, whether or not at a port of entry, is considered an “arriving alien” subject to mandatory detention under INA § 235(b)(2)(A) [8 U.S.C.A. § 1225(b)(2)(A)].
- *Matter of Yajure Hurtado*: The BIA held that all noncitizens who entered the U.S. without being admitted are not eligible for bond hearings under INA § 236(a) [8 U.S.C.A. § 1226(a)] even if they have lived in the U.S. for years.
- *Matter of Felix-Figueroa*: The Board of Immigration Appeals held that an immigration judge must apply the realistic probability test whenever a party asserts that a state’s

definition of a controlled substance is broader than the federal definition based on a mismatch regarding the isomers of a particular controlled substance.

- *Matter of Lopez-Ticas*: The Board of Immigration Appeals held that a deficient notice to appear that is missing the time and place of the hearing does not negate a respondent's admissions to the factual allegations or invalidate the charge of removability and therefore is not a proper basis for withdrawing pleadings.
- An updated appendix on state statutes held to constitute or not to constitute crimes involving moral turpitude.