

Federal Court Upholds Immigrants' Right To Reopen Cases From Outside the U.S.

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Washington, D.C. - Today, a federal appellate court chastised the Board of Immigration Appeals (BIA) for preventing noncitizens from reopening their cases from outside the United States. This important [ruling](#) [1] from the U.S. Court of Appeals for the Sixth Circuit repudiates the government's view that immigration judges and the BIA lack "jurisdiction" over such cases.

The American Immigration Council's Legal Action Center and the National Immigration Project of the National Lawyers Guild, which filed a joint [amicus brief](#) [2] in the case, applaud the Sixth Circuit's ruling. The [Legal Action Center](#) [3] and [National Immigration Project](#) [4] have coordinated litigation on this issue nationwide and call on the BIA to abandon its misguided regulation barring review of motions filed by noncitizens outside the United States.

"The Sixth Circuit recognized that the regulation deprives noncitizens of their statutory right to present new evidence in their cases. The decision corrects the government's unlawful attempt to separate families and opens the door for them to return to the United States," said attorney Trina Realmuto of the National Immigration Project. Beth Werlin of the Legal Action Center said, "A motion may be a person's only chance to present his case to the immigration judge. The government should take immediate steps to withdraw this unfair and outdated regulation rather than proceed with continued, unnecessary and costly litigation."

Federal law gives noncitizens the right to file motions to submit new evidence after their removal orders become final. But the BIA has long maintained that it cannot consider such a motion if a foreign national is outside the United States. This policy gives the government a perverse incentive to remove noncitizens from the country before they have an opportunity to submit evidence that could change the outcome of their cases. Moreover, the policy is at odds with provisions of a harsh 1996 immigration law that resulted in a dramatic reduction in due process rights and expansion of expedited removal but that made it clear that noncitizens had the opportunity to seek review of unfavorable decisions from outside the United States.

Today's [ruling](#) [1] involved Vakhtang Pruidze, a green card holder from Russia removed from the country because of a minor offense in Michigan. Less than two weeks after his removal, the criminal court vacated Mr. Pruidze's conviction. He then sought to reopen his immigration case, but the BIA refused to consider the motion because he was outside the country.

As the Sixth Circuit declared in its [ruling](#) [1], the BIA's interpretation "has no roots in any statutory source and misapprehends the authority delegated to the Board by Congress."

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[1] <http://www.ca6.uscourts.gov/opinions.pdf/11a0030p-06.pdf>

[2] <http://www.legalactioncenter.org/sites/default/files/docs/lac/Pruidze-amicus-brief.pdf>

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