No.

IN THE

SUPREME COURT OF THE UNITED STATES

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Pierre GENEVIER (Pro se) — PETITIONER

vs.

Mr. Brian DeMore

Respondent

**ON PETITION FOR A WRIT OF CERTIORARI TO**

**Court of Appeals for the Ninth Circuit**

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# Application for a Stay of deportation presented to Justice Anthony M. Kennedy

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Petitioner (pro per) and Appellant/plaintiff

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The application for a stay of removal refers to the appendices of the petition for writ of certiorari (PWC App. xx) and to the request for judicial notice (RFJN xx) in connection with the application for stay filed concurrently.

## TABLE OF AUTHORITIES CITED

Federal and State Cases PAGE NUMBER



### United States Constitution / Federal Statutes



### Treatise, law review, and other references

## A Introduction.

Petitioner applies for an order staying the removal order issued by Mr. DeMore on 1-11-08 [PWC App. D.1] pending the review of the petition for writ of certiorari and/or until a final decision is reached in the related cases addressing petitioner' s refugee status issue (if the petition for certiorari is denied). The Ca9 had stayed the removal order during the review of the District Court' s order [PWC App. D.10], but the stay ended when the Appeals Court issued the mandate on 11-10-09, and the Appeals Court did not respond to petitioner' s request to maintain the stay of removal (or to stay the mandate) until this court rules on an eventual petition for certiorari or later [filed on 8-10-09], so this application is now necessary. The grounds for the stay are: **1)** the removal order is manifestly illegal according to INA 240 (c) (3) (A) and the stay is justified according to 8 USC 1252 f (2); **2)** the removal would cause an irreparable injury to petitioner and it is **not** in the US interest that designed its adjustment of status procedure with the objective of preventing I-485 applicant from returning to their country while they contest their summary denial; and 3**)** the petition for certiorari is meritorious.

## B The removal order is manifestly illegal according to INA 240 and the stay is justified according to 8 USC 1252 f.

**The order of removal** (PWC App. D 1) issued by the LA ICE office (Mr. DeMore) on 1-11-08 is **full of lies,** so it is not based '***upon reasonable,***

***substantial, and probative evidence'*** . Petitioner has requested asylum [PWC App. D.2], he was granted refugee status (asylum) according to the record [see verification of **refugee** status (PWC App. D.3), ALJ Tolentino' s confirmation of the refugee status (PWC App. D.4), **refugee A3** EA card (PWC App. D.7),], and he has always had a permission to stay in the US beyond 7-15-02 (see PWC App. D.2, 3, 7). **The deportation determination is** therefore **not valid** or **is illegal** according to **INA section 240 (c) (3) (A)** [' *No decision on deportability shall be* ***valid*** *unless it is based upon reasonable, substantial, and probative evidence.*']. And it is these '*clear and convincing evidences*' that the order was not valid according to INA 240 that led to the stay by the Appeals Court pursuant to 8 USC 1252 (f) (2) [8 USC 1252 (f) (2) states: ' *..no court shall enjoin the removal ...* ***unless the alien shows by clear and convincing evidence that the entry or execution of such order is prohibited as a matter of law*** **'** .].

So to maintain the stay until **(1)** the Court rules on the petition for writ of certiorari and/**or (2) until final** rulings are rendered in the related cases addressing the validity of petitioner' s refugee documents is justified. Again both lower Courts have refused to address the issue of the validity of petitioner' s refugee documents since they declined jurisdiction, so their decisions did not change the illegality of the removal order and/or the validity of petitioner' s refugee documents, and the stay is justified and should be granted until this issue is honestly and properly addressed in a court of law.

## C The irreparable injury and balance equities.

**1) The deportation would cause petitioner an irreparable injury.**

The unfair and illegal removal would cause petitioner an irreparable injury because he is very poor, and he has health problems (he has been put on disability for the past 4 years). The removal to France in this context **(1)** would prevent petitioner from defending his various lawsuits and therefore violate his right to a due process because he cannot afford a lawyer to defend his case here and he would not be able to defend his case from France [he could not do the necessary research for his case and would not even be able to send his pleadings]; and **(2)** the removal would be extremely stressful and hurtful and would significantly worsen petitioner' s health [the County cardiologist diagnosed angina pectoris in 11-2005 (common name for ischemia an accepted impairment for the SSA), and petitioner has had headaches an nausea every week for the past 5 years almost, so the removal would hurt him, especially given that he would most certainly spend weeks sleeping in the street in the cold winter before finding a place to live if removed to France].

**2) The stay is in the interest of the US.**

It is not in the public interest to enforce promptly removal in this case of a petitioner contesting the summary denial of his I-485 application with

several valid refugee documents. In Freeman the Ca9 wrote: '*The purpose of adjustment of status procedures is best served by allowing VWP entrants – like Mrs. Freeman –* ***the right to contest their summary denial*** ***<u>without having to leave the US first</u>***. *The adjustment procedure of section 245* ***<u>was specifically designed to obviate the need for departure and reentry in the case of alien temporarily in the US</u>***...' , so **the stay** until the issue of petitioner' s refugee status is addressed properly, **<u>is in the US interest</u>** because it would determine his right to adjust to permanent resident status. Again the 2 lower Courts decisions declined jurisdiction, so they did not address the validity of petitioner' s refugee documents and the stay is justified until this issue is addressed for everyone' s benefit.

Moreover, obviously, the evidences in the record prove that grave (even criminal) wrongdoings took place in petitioner' s case [see altered verification of status (PWC App. D. 13) issued by the INS and used by the DPSS and DSS to make petitioner loose his refugee benefits and to influence legal proceedings (viol. 18 USC 1512, 1546,), etc.], and prove that petitioner is in (and has shown his) **good faith** (several times) [he immediately informed an ALJ and the INS audit office of the problems on his refugee status; he explained honestly and truthfully the problems on his status to the USCIS Refugee Center Director, Mr. Christian (as seen PWC App. 5, 6), who granted a A3 **refugee** EA card (he did not hide the in absentia decision to the INS since he forwarded it to the Audit office – and he could not have hidden it

since it is on the INS computer); he wrote to administration officials and politicians to try to resolve the problems outside the court system, etc.], so the deportation without ruling on the validity of these refugee documents **and eventually (or if necessary) on the application of the collateral estoppels doctrine on this case** would lead to a gross miscarriage of justice, would cover up grave (even possible criminal) wrongdoings, and even be criminal because some ICE and AUSA office employees are parties in their individual capacity in the case, which is not in the public interest either.

## D The merits of the petition for certiorari, and the related cases.

**1) The petition for certiorari is meritorious**.

The petition for certiorari presents clear errors on the jurisdiction and transfer issues and incorrect interpretations of a newly enacted legislation (Real ID act) from the lower courts and gives the US Supreme Court a chance to clarify (the Real Id Act on) the issues of a review of expedited removal order under **8 USC 1252** e and of the transfer of timely petition under 28 USC 1631 for everyone 's benefits, which justify the grant of certiorari [RFAP states in section 12:207. '*After newly –enacted federal statutory provision have worked their way through the Courts, the Supreme Court may grant certiorari to* ***explain, clarify, approve or disapprove lower court interpretations*** *[see Hazen Paper Co. v. Biggins, 507 US 604, 608 (1993)...*'].

Moreover, in the context of the case (the application for adjustment of status and pending lawsuits), the full-of-lies-removal-order results in obvious violations of the due process right in various proceedings, which also justify the grant of certiorari. It is also obvious that the various administrations could (and should) have addressed the refugee status issue many times during the various proceedings and that instead, they opted to hurt petitioner with lies, treacheries, and crimes even sometimes, and this behavior is unacceptable in an advanced justice system. The removal order (and lower courts decisions) leads therefore to a '***gross miscarriage of justice'*** and '***the result reached below is unduly harsh in its result***', which justify the grant of certiorari also, so the petition is meritorious.

**2) The related cases addressing the issue of the validity of petitioner's refugee status and documents.**

Finally, everyone of petitioner 4 pending related cases addresses the issues of the validity of petitioner's refugee status and documents, and of the application of the collateral estoppels principle. These issues are even the main issues of the case to obtain the SSI benefits (08-5681) that the District Court recently improperly dismissed (see RFJN 1-13) [The issue of case 08-5681 is whether petitioner's refugee documents made him eligible for SSI according to 20 CFR 416.1618 (see RFJN 1-15), but here again the same 2 judges who refused to review petitioner's refugee documents during the habeas corpus proceeding, recently refused to read the 20 CFR regulation

properly to pretend that petitioner was not eligible for SSI because the INS supposedly did not '***verify***' his refugee status in 2005 (RFJN 1-13), **which is not true** since the INS confirmed that petitioner's A3 refugee EA card was '***currently valid***' in 10-5-05 as required by 20 CFR 416.1618 (PWC App. D. 8) – the A3 EA card **is an evidence of refugee status** (see PWC App. D. 7.3), so if it is '*currently valid*' then petitioner is a refugee for the INS. Petitioner had 3 valid documents establishing his eligibility according to 20 CFR 416.1618, and Mr. Christian, the USCIS Refugee Center Director, had also confirmed the refugee status just 9 months before the SSI application (!) (see RFJN 1-13, PWC App. 3, 4, 5, 6, 7, 8), so the 2 judges' decision (RFJN 14-15) that do not address in detail petitioner's objections is very unfair again, and petitioner will/is appealing it of course. These same judges had already refused to address the refugee status issue in case 05-7515 also, delayed the 05-7515 case 2 years, and dismissed it without taking in consideration any of petitioner's arguments and legal authorities(!)]. So it would be unfair to deport petitioner on a full-of-lies-removal-order, after both the District Court and Appeals Court rendered incorrect decisions and refused to address the issue of petitioner's refugee documents validity, and when there are still cases pending in Court that address this issue [again the Appeals Court had originally asked the parties to brief this issue (see PWC App. D.10)].

Finally in the negligence case BC 364 736 against the LA County default should have been entered 3 times already, and the California Supreme Court is now reviewing again the issues of the last request to enter default (see RFJN 17-40), so it is also important to stay the case until this case is resolved also because the County has an important responsibility in petitioner's problems, and the entry of default and payment of a compensation would practically end this removal case as well. The petition for review in front of the California Supreme Court also addresses 2 issues of significant importance for the community (RFJN 16-39), so they should be addressed for everyone's benefits. To conclude the petition for certiorari is meritorious, and the stay until the issue of the validity of petitioner's refugee documents and status is properly addressed is well deserved in the context of the grave wrongdoings that took place on the case, of petitioner's showing of good faith, and of the 4 related cases still pending in court.

## F Conclusion.

For all these reasons, petitioner respectfully requests that the Court issues an order staying the removal order pending the review the petition for a writ of certiorari and/or until a final ruling on the validity of petitioner's refugee documents (and status) is rendered in one of the related cases (if the petition is denied).

Respectfully submitted,

Date: December , 2009 Pierre Genevier

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"As required by Supreme Court Rule 33.1(h), I certify that the document contains __2465_ words and **less than 30 pages**, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).
"I declare under penalty of perjury that the foregoing is true and correct.

"Executed on _December , 2009.

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**PROOF OF SERVICE**

I, Pierre Genevier, do swear or declare that on this date, December , 2009, as required by Supreme Court Rule 29, I have served the enclosed **Application for** a **Stay of Deportation** on each party to the above proceeding or that party's counsel, and on every other person required to be served, by hand delivering or faxing or emailing or mailing the above documents.

**The names and addresses of those served are as follows**:

**Mr. Tim Laske, Special Assistant US Attorney,** Attorney for Mr. DeMORE**, at** Room 7516 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012, Fax: (213) 894-7819**.**

**The Solicitor General** of the United States, Room 5614, Department of Justice, 950 Pennsylvania Avenue , N.W., Washington, D.C. 20530-0001.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December , 2009

Pierre Genevier