

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

July 8, 2005

ADMINISTRATIVE ORDER

The Real ID Act of 2005 (the Act), Pub. L. No. 109-13, 119 Stat 231 (May 11, 2005), makes critical changes in the way criminal aliens must challenge deportation, removal and exclusion orders.

This Administrative Order establishes procedures under the Act for transferring the habeas petitions described above from the District Courts to the Fifth Circuit. The order applies to our nine District Courts and to litigants and their counsel.

1. Those cases subject to transfer under the Act must be considered as petitions for review and must be transferred to the Circuit Court of Appeals where the Immigration Judge concluded proceedings. Because there may be complex issues involved, District Judges should provide the parties an opportunity to stipulate to, or brief the propriety of, the transfer order.

2. If the District Court concludes all or a portion of a case is subject to transfer, the District Court shall issue a transfer order to the appropriate Court of Appeals characterizing the action as a "petition for review."

3. The transfer order should indicate: a) the transfer is pursuant to the Real ID Act; b) if there is a final order from the BIA; c) where the Immigration Judge concluded the proceedings; d) to which Court of Appeals the case should be transferred; and e) the petitioner's Alien Number (the eight-digit number preceded by the letter A).

4. Any stay issued previously, and not terminated by the District Court, shall remain in place during and after transfer. The Government may move in the Court of Appeals to vacate the stay, if appropriate.

5. The District Court clerks must transmit a paper copy of the entirety of the available record to the Court of Appeals contemporaneous with transmission of the transfer order. In a situation where only part of the habeas corpus petition is eligible for transfer, the District Court must forward the portion of the District Court record relating to the petitioner's deportation, removal or exclusion.

6. No later than 14 days after the Court of Appeals docketed the case, the parties shall inform this court's clerk whether the

record transmitted by the District Court is sufficient for purposes of the petition for review, or whether additional documents are necessary.

/s/Carolyn Dineen King
Chief Judge