

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-40421

Summary Calendar

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REINA CLARISSA HERNANDEZ DE AVILA,  
Petitioner,  
versus  
IMMIGRATION & NATURALIZATION SERVICE,  
Respondent.

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Petition for Review of an Order of  
the Board of Immigration Appeals  
(A29 981 002)

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(November 29, 1994)

Before GARWOOD, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*

Petitioner, a Honduran who overstayed her visitor's visa, conceded that she is deportable but sought suspension of deportation because she had been in the United States for the past seven years. While the INS has discretion to ignore brief absences from the United States in computing the seven-year period, see 8 U.S.C. § 1254(b)(2), the INS interpreted the statute reasonably in

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\*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

finding that petitioner's thirteen-month visit to Honduras was not brief enough, and we defer to it. Chevron, U.S.A., Inc. v. NRDC, 467 U.S. 837 (1984); Rubio-Rubio v. INS, 23 F.3d 273, 276-77 (10th Cir. 1994). Petitioner's complaint about the denial of an eleven-month "voluntary departure" (i.e., stay of deportation) is moot, because she has stayed in this country pending appeal for more than eleven months since the immigration judge denied her request. See Hwei-Jen Chou v. INS, 774 F.2d 1318, 1320 (5th Cir. 1985).  
AFFIRMED.