IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

KATALIN HORVATH,

No. C 10-4699 WHA (PR)

            Petitioner,

ORDER DENYING MOTION TO STAY

  vs.

J. MARK KANG,

            Respondent.

_____/

Petitioner, a detainee of the United States Department of Immigration and Customs

Enforcement ("I.C.E."), filed this pro se petition for writ of habeas corpus pursuant to 28 U.S.C.

2241 in which she challenges an order of removal. Respondent was ordered to show cause why

the petition should not be granted and a stay of removal ordered. Respondent filed a response.

Because the copy of the Order to Show Cause mailed to petitioner was returned as

undeliverable with an indication that petitioner was not at the address last provided to the court,

the petition was ruled upon without waiting for petitioner's traverse. Petitioner has since filed a

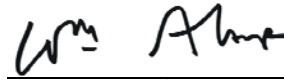traverse, a supplemental brief, and a supplemental motion for a stay.

The petition was dismissed because judicial review of all removal orders lies

exclusively in the court of appeals, not the district court. 8 U.S.C. 1252(a). Nothing in the

traverse and other supplemental papers petitioner has filed herein alters this conclusion.

Petitioner currently has a case pending before the Bureau of Immigration Appeals. As

explained in the dismissal order, the proper procedure for her to challenge her removal is to file a petition for review of the B.I.A.'s decision once it is rendered, not a habeas petition, in the United States Court of Appeals for the Ninth Circuit. *See ibid.*

The supplemental motion for a stay (docket number 15) is **DENIED**. She may seek a stay from the Ninth Circuit in conjunction with her petition for review of the B.I.A.'s decision.

IT IS SO ORDERED.

Dated: December ___23___, 2010.

WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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