

23-1270 RILEY V. GARLAND

DECISION BELOW: 2024 WL 1826979

LOWER COURT CASE NUMBER: 22-1609

QUESTION PRESENTED:

Petitioner Pierre Riley, ineligible for cancellation of removal or discretionary relief from removal, sought deferral in withholding-only proceedings, pursuant to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. After the Board of Immigration Appeals issued a decision reversing an immigration judge's grant of relief, Riley promptly petitioned for review by the U.S. Court of Appeals for the Fourth Circuit. Although both parties urged the court to decide the merits of the case, the Fourth Circuit dismissed Riley's petition for lack of jurisdiction pursuant to 8 U.S.C. 1252(b)(1), which states "[t]he petition for review must be filed not later than 30 days after the date of the final order of removal."

This holding implicates two circuit splits, each of which independently warrants review.

1. Whether 8 U.S.C. 1252(b)(1)'s 30-day deadline is jurisdictional, or merely a mandatory claims-processing rule that can be waived or forfeited.
2. Whether a person can obtain review of the BIA's decision in a withholding-only proceeding by filing a petition within 30 days of that BIA decision?

THE PETITION FOR A WRIT OF CERTIORARI IS GRANTED LIMITED TO THE QUESTIONS PRESENTED BY THE RESPONDENT'S BRIEF.

1. Whether the 30-day deadline in 8 U.S.C. 1252(b)(1) for filing a petition for review of an order of removal is jurisdictional.
2. Whether a noncitizen satisfies the deadline in Section 1252(b)(1) by filing a petition for review challenging an agency order denying withholding of removal or protection under the Convention Against Torture within 30 days of the issuance of that order.

STEPHEN J. HAMMER, ESQUIRE, OF DALLAS, TEXAS, IS INVITED TO BRIEF AND ARGUE THIS CASE, AS AMICUS CURIAE, IN SUPPORT OF THE JUDGMENT BELOW.

CERT. GRANTED 11/4/2024