

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-2029

BATSAIHAN PURVEEGIIN,
Appellant

v.

SECRETARY MICHAEL CHERTOFF, of the
Department of Homeland Security;
ALBERTO GONZALES, Attorney General
of the United States of America;
THOMAS DECKER, District Director
Philadelphia field Office Deportation
Detention ICE; JACQUELINE OSTERLIND;
CRAIG LOWE, Warden, Pike County
Correctional Facility

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 06-cv-01064)
District Judge: Honorable Thomas I. Vanaskie

Submitted Pursuant to Third Circuit LAR 34.1(a)
May 12, 2008

Before: AMBRO, FUENTES and FISHER, Circuit Judges

Opinion filed May 29, 2008

OPINION

PER CURIAM

In May 2006, Batsaihan Purveegiin filed a petition pursuant to 28 U.S.C. § 2241 in the District Court for the Middle District of Pennsylvania challenging his detention during his removal proceedings. In January 2007, Purveegiin filed a petition for review of an order of removal entered by the Board of Immigration Appeals (BIA) and a motion to stay removal which were docketed in this Court at No. 07-1227.¹ On March 5, 2007, after Purveegiin had been inadvertently removed to Mongolia while his stay motion was pending, the District Court dismissed the § 2241 petition as moot. Purveegiin remains in Mongolia.² Purveegiin filed a timely notice of appeal, and we have jurisdiction under 28 U.S.C. § 1291.

We exercise plenary review over the District Court's ruling on mootness.

Belitskus v. Pizzingrilli, 343 F.3d 632, 639 (3d Cir. 2003). Because Purveegiin is no longer in custody, we agree with the District Court that his § 2241 petition is moot. See In re Cantwell, 659 F.2d 1050, 1053 (3d Cir. 1981) (“[A]n appeal will be dismissed as moot when events occur during the pendency of the appeal which prevent the appellate court from granting any effective relief.”) If in the future Purveegiin is returned to the

¹ Counsel was appointed for Purveegiin, and the petition has been stayed pending this Court's en banc decision in Pierre v. Attorney General, No. 06-2496.

² On March 13, 2007, we ordered the government to return Purveegiin to the United States. According to the government's most recent status report, the negotiations between the government and Purveegiin for his return stalled because Purveegiin insisted that the government obtain a Mongolian passport for him and did not want to be detained upon his return to the United States.

United States and detained, he can file a new § 2241 petition challenging that detention.³

For the above reasons, we will affirm the District Court's March 5, 2007 order.

³ In April 2007, Purveegiin filed a motion in No. 07-1227 requesting that he not be detained upon his return to the United States. We denied his request and noted that appointed counsel could file a motion for bail or release if counsel deemed such a motion to be nonfrivolous.