

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
TACOMA IMMIGRATION COURT**

STANDING ORDER 03-20: Procedures for Safe Hearings During the COVID-19 National Emergency

This order establishes filing requirements and courtroom procedures pursuant to Immigration and Nationality Act § 240(b)(1)-(2) and 8 C.F.R. §§ 1003.10(b), 1003.21(b), 1003.31(c), 1003.40. This order is effective immediately. Standing Order 01-20: Establishing Safe Procedures During the COVID-19 National Emergency, and Standing Order 02-20: Establishing Safe Procedures During the COVID-19 National Emergency are revoked and rescinded.

FACTUAL FINDINGS

On Wednesday March 17, 2020, the Federal Government directed agencies to minimize face-to-face interactions with members of the public.¹ To comply with directives from Federal, State, and County health officials and reduce the spread of COVID-19, the following procedures shall be implemented immediately.

VIDEO CONFERENCE AND TELEPHONIC PROCEEDINGS

All master calendar, bond, credible and reasonable fear review, and individual calendar hearings shall be conducted by video conference in one of five (5) court rooms, including VTC Courtroom 1 (E-145-H) and VTC Courtroom 2 (E-145-G), separate from immigration judges and court staff. INA § 240(b)(2)(A)(iii); 8 C.F.R. § 1003.25(c); see *Vilchez v. Holder*, 682 F.3d 1195, 1199 (9th Cir. 2012). Immigration judges will conduct video conference hearings from their offices or remote courtrooms.

Respondents have a right to proceed in person or through video conference at an evidentiary hearing on the merits. INA § 240(b)(2)(B). If a Respondent objects to conducting an evidentiary hearing where their attorney appears telephonically, Respondent may request a continuance for good cause. 8 C.F.R. §§ 1003.29, 1240.6.

No attorney, interpreter, witness, or member of the public who is subject to the restrictions articulated in Policy Memorandum 20-13, EOIR Practices Related to the COVID-19 Outbreak (June 11, 2020) (as amended), is subject to an isolation or quarantine order from a government health official or a medical provider, or has had physical contact with anyone within the past fourteen (14) days who was diagnosed with COVID-19 may appear in the Tacoma Immigration Court because the public interest requires that removal proceedings be closed to individuals likely to spread COVID-19. 8 C.F.R. § 1003.27(c). If an individual fails to comply with these reasonable limitations, the court shall comply with guidance from federal, state, and county health authorities and continue the hearing. 8 C.F.R. § 1240.6.

A. Attorneys and Accredited Representatives

Attorneys and accredited representatives are strongly encouraged to appear by telephone conference at the phone number contained in the Form EOIR-28, Notice of Entry of Appearance, filed with the court. INA § 240(b)(2)(A)(iv). No prior request for a telephonic hearing is required—the court will call an attorney, using information contained in the Form EOIR-28, if one is not physically present in the video conference courtroom at the start of a hearing. Attorneys and accredited representatives may also provide an alternative phone number by calling the Tacoma Immigration Court at least four (4) days

¹ OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, Memorandum for the Heads of Departments and Agencies (Mar. 17, 2020), available at <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-16.pdf>.

prior to a hearing. Attorneys may also appear with Respondent in the video conference courtroom.

B. Witnesses, Family Members, and Community Members

Witnesses, family, and community members may attend a hearing in the same courtroom as Respondent, so long as no more than six (6) people—including Respondent, DHS counsel, an interpreter, a bailiff, and Executive Office for Immigration Review staff—are present in the courtroom. 8 C.F.R. § 1003.27(a). The court strongly encourages witnesses, family, and community members to provide telephonic testimony or submit letters or written declarations in lieu of appearing at hearings to limit the potential spread of COVID-19.

C. Members of the Media

Members of the general public may be asked to leave a hearing to accommodate a member of the media. 8 C.F.R. § 1003.27(a).

D. Members of *Franco-Gonzales* Class

Notwithstanding this order, the court will implement safeguards and adopt all procedures necessary to ensure a full and fair hearing for members of the *Franco-Gonzalez v. Holder*, 2014 WL 5475097 (C.D. Cal. 2014) class, including an in-person hearing.

FILING OF APPLICATIONS, DOCUMENTS, BRIEFS, AND EVIDENCE

The filing of documents and evidence by first class mail is strongly preferred to reduce the risk of COVID-19 transmission. 8 C.F.R. § 1003.32(a). Documents filed by email pursuant to Immigration Court Practice Manual, Chapter 3.1(a)(viii) (Apr. 10, 2020) may not exceed fifty (50) pages—all filings greater than fifty (50) pages must be submitted at the court’s filing window or by mail. The court may not consider or give any evidentiary weight to untimely evidence presented at the hearing. *See Taggar v. Holder*, 736 F.3d 866, 889 (9th Cir. 2013). Further, the court may continue a hearing if documents are presented during a hearing, so that the court has an opportunity to review and carefully consider the new evidence. 8 C.F.R. §§ 1003.29, 1240.6.

MOTIONS TO CONTINUE

While this order is effective, any party may call the Tacoma Immigration Court at (253) 779-6020 to request that a hearing be continued if Respondent’s attorney, accredited representative, or witnesses are unable to appear, pursuant to the procedures articulated by this order, because they are exhibiting any symptoms of COVID-19, are subject a quarantine or isolation order of a local, state, or federal official—including situations where the attorney or accredited representative cares for a sick or at-risk family member or a minor child—or because of guidance or orders issued by the Centers for Disease Control, the Washington Department of Health, or a County Health Officer. 8 C.F.R. § 1003.10(b), 1003.29. Motions to Continue may also be filed in writing.

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So ordered.

Theresa M Scala

Theresa M. Scala
Assistant Chief Immigration Judge
Date: 8/5/2020



John Odell
Immigration Judge

Date: 8/4/2020

Tammy L. Fitting

Tammy L. Fitting
Immigration Judge

Date: 8-4-2020



Charles Neil Floyd
Immigration Judge

Date: 8-5-2020