

Fourth Revised Standing Order for the Cleveland Immigration Court

On March 17, 2020, the Federal Government issued a memorandum directing agencies to minimize face-to-face interactions with members of the public, which is posted at <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-16.pdf>. To comply with directives from Federal, State, and County health officials and reduce the spread of COVID-19, it is hereby ordered that the following procedures shall be implemented immediately in the Cleveland Immigration Court and shall remain effective until rescinded by a superseding order of the Cleveland Immigration Court. This order is made pursuant to Immigration and Nationality Act § 240(b)(1)-(2) and 8 C.F.R. §§ 1003.10(b), 1003.21(b), 1003.25, 1003.29, 1003.31(c), 1003.40.

On May 22, 2020, General Order No. 2020-08 was issued by the Honorable Chief Judge Patricia A. Gaughan. This order closed the Carl B. Stokes U.S. Courthouse to the public until July 31, 2020. Only persons having official business authorized by this General Order or by the Chief Judge or a Presiding Judge, including credentialed media, may enter courthouse property. This includes those scheduled for immigration proceedings before the Cleveland Immigration Court. The General Order requires the use of face masks or cloth face coverings for all individuals in the courthouse unless otherwise directed by the Court or a courthouse official. Common areas where employees or the public congregate to interact will be closed. Physical distancing will be enforced in other public and common areas.

All parties should continue to monitor the EOIR website at <https://www.justice.gov/eoir> and/or EOIR's Twitter feed at: (https://twitter.com/DOJ_EOIR?ref_src=twsrc%5Etfw) the latest information on court operating status.

INDIVIDUALS TESTING POSITIVE FOR COVID OR THOSE WITH INFLUENZA OR COVID-19 SYMPTOMS

Under no circumstances shall any individual experiencing symptoms consistent with Influenza or COVID-19 infection enter the Court, including but not limited to the lobby, filing window, and courtrooms. This same restriction applies to any individuals who have tested positive for COVID-19, unless they have been affirmatively advised by an appropriate medical professional that they are no longer contagious. Individuals may be asked questions related to whether they have any of these symptoms and may be denied access to or asked to leave the Court space, depending on their responses. If any individual described in this paragraph is unable to attend an upcoming hearing at which his or her presence is required, he or she shall promptly notify the Court in writing to the Court's email filing mailbox at Cleveland.Immigration.Court@usdoj.gov or in an emergency, by telephone to the Court. The Court may request appropriate medical documentation as deemed necessary.

DETAINED HEARINGS

Detained hearings will continue to be conducted as had been previously scheduled. Any attorney-at-law for any party may appear telephonically in detained cases before the Cleveland Immigration Court. Any attorney for the respondent must confer with the respondent in advance of the hearing and ensure that the respondent consents to the telephonic appearance. Attorneys for the parties **must provide** notice either by United State Postal Service or email Cleveland.Immigration.Court@usdoj.gov 24 hours in advance of the hearing and provide a **landline** phone number at which to be reached. If any attorney for the respondent wishes to appear in person at a hearing in a detained case, the attorney **must** provide the Court with prior notice at least **48 hours** before the hearing.

Parties are encouraged to confer and reach stipulations as to facts and/or legal issues (e.g. 10 years of continuous residence) to facilitate the prompt disposition of cases. Parties are also encouraged to confer and reach agreement on the eligibility for bond and the amount of the bond. Parties

should submit affidavits or written statements of witnesses in lieu of the witnesses appearing in court.

UPON ARRIVAL

All persons scheduled before the Cleveland Immigration Court should allow additional time sufficient to clear security, check in with court staff and arrive in the appropriate courtroom by the scheduled hearing time. All persons must have an appropriate face masks or cloth face coverings which adequately covers the wearer's nose and mouth at all times. All persons without a face covering shall be denied access to or asked to leave the Court space. All persons are also required to comply with any applicable signs or instructions from Court personnel while in the Court and adjacent space.

FILING OF MOTIONS, APPLICATIONS, BRIEFS, EVIDENCE, AND OTHER DOCUMENTS FOR DETAINED AND NON DETAINED PROCEEDINGS

Routine Filings: First class mail, express delivery services, or email sent in compliance with the guidelines posted at: <https://www.justice.gov/eoir/filing-email>. Parties shall file any and all motions, documents or evidence by prior to any scheduled proceedings in accordance with the Immigration Practice Manual. The Court will continue to accept email filings until **September 4, 2020**. The Court is not accepting email filings that are sixty (60) days in advance of any filing deadline or hearing date. **This limitation does not apply to applications for asylum.** Additionally, any submissions over fifty (50) pages **must** be made by means other than email. Attempts to circumvent the (50) page limit by submitting multiple submissions shall result in the entire submission being rejected. No conformed copy of any filing made through the Court's email will be provided. If counsel wishes to receive a conformed copy, they must follow the procedure set forth in the Immigration Court Practice Manual. Counsel should refrain from contacting the Court by phone or email to confirm receipt of any filing through the Court's email.

Time-Sensitive Filings: All filing deadlines ordered by the Court remain in effect. Unless otherwise ordered by the Court, all filings are due in accordance with the deadlines established in the Immigration Court Practice Manual, Chapter 3.1(b). Untimely filings are subject to the consequences identified in the Immigration Court Practice Manual, Chapter 3.1(d).

Page Limit: For documents relating to country conditions or other reference materials, a **maximum of 150** pages total may be submitted. The relevance of each background/country condition document shall be set forth in the table of contents or by citation in the prehearing statement. A party wishing to submit more than 150 pages of such documentation must first establish good cause in a written motion that identifies the documents sought to be submitted, why they are believed to be necessary, and what they show that is not already established by any prior submissions. The U.S. Department of State's most recent Country Report on Human Rights Practices and Report on International Religious Freedom may be submitted, or made part of the record by motion, without counting against this page limit.

REQUESTS FOR TELEPHONIC PREHEARING CONFERENCES

Parties are reminded that telephonic prehearing conferences may be requested to narrow issues, obtain stipulations, exchange information, or otherwise simplify and organize the proceeding. 8 C.F.R. § 1003.21(a). Prehearing conferences may be initiated by the Immigration Judge or requested by a party, in writing, to resolve matters without the need for a hearing. If either party believes that a matter is appropriately resolved via a pretrial conference that party shall confer with the opposing party and file an appropriate motion with the Court. The Court will then review the record and take action as appropriate.

NON DETAINED

INDIVIDUAL CALENDAR HEARINGS

Pursuant to 8 C.F.R. § 1003.25(c), Counsel and respondent(s) may appear by telephone¹ if good cause is shown. Counsel and respondent

¹ If a respondent wishes to make such a request, the respondent must file a request in writing 15 days prior to the scheduled hearing date and attach to the request a sworn statement clearly stating that the respondent is waiving his/her right to appear in person or via VTC and stating that he/she has been advised of the right to proceed in person or through VTC. 8 U.S.C. 1229a(b)(2).

must be together and they must appear through a landline. Parties are encouraged to utilize methods that reduce the number of persons appearing for Individual Hearings. This includes filing sworn written statements in lieu of testimony when appropriate. Parties should refrain from bringing children or other persons not essential to the scheduled individual hearing. The presiding judge retains the right to exclude non-essential persons from the courtroom.

Motions for witnesses to appear by telephone must be submitted no later than fifteen (15) days in advance of the individual calendar hearing. Motions for witnesses to appear telephonically must include a summary of the witness's expected testimony that demonstrates its relevance, materiality, and its necessity.

In all individual calendar hearings wherein the respondent is represented and the relief sought includes asylum, withholding of removal, and/or protection under the Convention Against Torture, Counsel for the respondent shall submit proposed stipulated facts that form the basis for the claim for relief. The proposed stipulated facts shall delineate any particular social group(s), if applicable, and shall be filed with the Court and served on the Department of Homeland Security no later than thirty (30) days prior to the individual calendar hearing.

No additional filing will be accepted at the hearing if counsel does not appear in person, and the decision of the Court will be based on the documents in the record at the close of the hearing. Any party appearing telephonically waives the right to object to the admissibility of any document offered in Court on the sole basis that they are unable to examine the document.

Parties are encouraged to resolve cases through written pleadings, stipulations and joint motions. If agreed to by the parties, the Court may adopt the proposed stipulated facts in lieu of, or in addition to, the respondent's oral testimony and rely on such stipulated facts in reaching a decision.

This Order will remain in full force and effect until and unless modified by any future order.

James F. McCarthy, III

Assistant Chief Immigration Judge