

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
SEATTLE IMMIGRATION COURT

STANDING ORDER 01-20: Establishing Safe Procedures 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 This order is effective immediately and shall remain effective until it is rescinded by a superseding order of the Seattle Immigration Court.

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.

No attorney, interpreter, witness, or member of the public who is subject to the restrictions articulated in Policy Memorandum 20-10, Immigration Court Practices During the Declared National Emergency Concerning the COVID-19 Outbreak (Mar. 19, 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 Seattle 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/or county health authorities and continue the hearing. 8 C.F.R. § 1240.6.

While the Court in ordinary circumstances prefers in-court appearance by the representatives of the parties, attorneys and accredited representatives may file motions to appear telephonically for any hearing. Such motion shall clearly identify the telephone number to be called, and the Court prefers a landline for audible clarity if such is an option.

Witnesses, family, and community members may attend a hearing in the same courtroom as the alien so long as no more than 6 people, including the hearing's participants, are present in the courtroom. During this emergency situation, the Court strongly encourages witnesses, family, and community members to rely on written statements in lieu of appearing at the hearing to limit the potential spread of COVID-19.

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).

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).

¹ OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, Memorandum for the Heads of Departments and Agencies (Mar. 17, 2020) <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-19.pdf>.

For individual calendar hearings, all filings must be submitted in accordance with the deadlines ordered by the Court. 8 C.F.R. 1003.31(c). Absent a prehearing order to the contrary, all filings must be submitted at least fifteen (15) days in advance of the hearing. To reduce the risk of COVID-19 transmission, the Court will NOT accept untimely documents filed less than 48 hours prior to the individual hearing. If a party wishes the Court to consider a filing despite its untimeliness, the party must make a written motion to accept the untimely filing no later than 48 hours prior to the date of hearing. A motion to accept an untimely filing must explain the reasons for the late filing and show good cause for acceptance of the filing. The Court may not consider or give any evidentiary weight to untimely evidence presented at the hearing. *Taggar v. Holder*, 736 F.3d 866, 889 (9th Cir. 2013).

The Executive Office for Immigration Review (EOIR) has established temporary email accounts for immigration courts nationwide to facilitate electronic filing for all parties while the rollout of the EOIR Court and Appeals System is delayed due to COVID-19. Guidelines for emailed filings can be found at <https://www.justice.gov/eoir/filing-email> . Emailed submissions shall be limited to 50 pages per case, and shall not be filed more than 3 months prior to any hearing or Court-ordered call-up date. **Applications for asylum are exempt from the three-month temporal limit on filings through email and will be considered filed on the date of receipt for purposes of the one-year filing deadline.**

A Respondent may file a "Motion to Adjudicate Applications Without Evidentiary Hearing" with the Court, prior to any filing deadlines established by the Court, to request that a written decision on the merits be issued based solely on the applications, declarations, and other evidence contained in the record of proceeding. 8 C.F.R. § 1003.37(a). The motion should indicate whether the respondent is seeking to apply for voluntary departure under INA § 240B. Should the respondent be seeking voluntary departure the motion must clearly indicate that the counsel or accredited representative has explained the conditions that attach to voluntary departure as set forth in *Matter of Gamero*, 25 I&N Dec. 164 (BIA 2010). For the purposes of post-conclusion voluntary departure during the period of this Standing Order, the parties should assume the Court would set the minimum bond of \$500 and grant the maximum period of 60 days to depart.

Included with a Motion to Adjudicate Applications Without Evidentiary Hearing must be a signed statement from the respondent that he or she understands his or her right to present testimony, but that such right is knowingly waived. In addition, should the respondent be seeking voluntary departure, the motion must also include a signed statement from the alien that he or she understands the conditions that attach pursuant to *Matter of Gamero, supra*, and that he or she accepts such conditions should voluntary departure be granted in the exercise of discretion.

The Department of Homeland Security (DHS) will be granted 7 calendar days to object, in writing, to a Motion to Adjudicate Applications Without Evidentiary Hearing. Absent a response, the Court will assume that background checks have been completed or will be completed prior to the issuance of a decision. The Court will not assume, however, that the DHS supports any application unless the DHS specifically submits a written response so indicating. Absent an indication the parties agree to an outcome, the Court will issue a decision on the merits of the applications and suitable for appellate purposes.

While this order is effective, in an urgent situation, any party may call the Seattle Immigration Court at (206) 553-5953 to request that a hearing be continued if the 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 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. Absent an urgent situation described above, a motion to continue should be filed in writing.

It is so ordered.

Theresa M. Scala
Assistant Chief Immigration Judge

Shane E. Johnson
Immigration Judge

Robert B.C. McSeveney
Immigration Judge

Brett M. Parchert
Immigration Judge