

## **Fifth 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procedures shall be implemented immediately in the Cleveland Immigration Court and shall remain effective until rescinded by a superseding order of the Cleveland Immigration Court.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 August 25, 2020, General Order No. Order No. 2020-08-2 was issued by the Honorable Chief Judge Patricia A. Gaughan which superseded Amended General Order No. 2020-08-1, which was vacated. This order continued the closure of the Carl B. Stokes U.S. Courthouse to the General Public. 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/eoir-operational-status-during-coronavirus-pandemic>) for 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 (this includes having a temperature at or in excess of 100.4 degrees or having a temperature in the past 48 hours at or in excess of 100.4 degrees) 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. The Court may request appropriate medical documentation as deemed necessary for any party requesting continuance based on health conditions.

Parties are advised that the Court's email filing mailbox at [Cleveland.Immigration.Court@usdoj.gov](mailto:Cleveland.Immigration.Court@usdoj.gov) will be terminated as of **September 4, 2020**. For an emergent matter the parties may contact the Court by phone.

### **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. In accordance with General Order No. 2020-08-2 a health screening (temperature check and COVID-19 screening questions) may be conducted at the entrance to the courthouse where the Cleveland Immigration Court is located. Individuals will be denied entrance to the courthouse if they have a temperature of 100.4 degrees or higher or respond affirmatively to any COVID-19 screening question. Respondents denied entrance to the courthouse should contact the Cleveland Immigration Court immediately at (216) 802-1100 to notify the court staff. In order to comply with General Order No. 2020-08-2, only witnesses whose entry has been approved by the Court in advance of the scheduled hearing will be granted access to the Courthouse. This means spouses, children, friends or any other person not approved to appear before the court will not be allowed inside the Courthouse.

All persons must have an appropriate face mask or cloth face covering which adequately covers the wearer's nose and mouth at all times. All

persons without an appropriate 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.

## **PUBLIC OBSERVATION OF IMMIGRATION PROCEEDINGS**

Members of the public wishing to observe immigration court proceedings should be aware that not all immigration proceedings are open to the public due to confidentiality. Observers must be seated prior to the start of any proceeding and should remain seated throughout the hearing to avoid disruption of the hearing. The Executive Office for Immigration Review has issued a Security Directive regarding electronic devices in space under its jurisdiction. Observers should consult PM 19-10 effective March 20, 2019 for guidance. Further, due to the pandemic the maximum number of persons who may be allowed into any one court room is limited for the protection of all those attending a hearing. Each courtroom has the capacity posted. All public observers must be over the age of 18 years. Judges retain the authority to further limit those that may attend any given hearing.

Observers are subject to the same face covering requirements outlined above and no person without a face covering will be granted access to any courtroom. In addition those that wish to observe must be free of any Influenza or COVID-19 symptoms. Observers should not enter the court if they have been exposed to a person with Influenza or COVID-19 symptoms. In accordance with General Order No. 2020-08-2 a health screening (temperature check and COVID-19 screening questions) may be conducted at the entrance to the courthouse where the Cleveland Immigration Court is located. Individuals will be denied entrance to the courthouse if they have a temperature of 100.4 degrees or higher or respond affirmatively to any COVID-19 screening question.

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

Routine Filings: In person filings are being accepted, however parties

are encouraged to utilize first class mail or express delivery services. Parties shall file any and all motions, documents or evidence prior to any scheduled proceedings in accordance with the Immigration Practice Manual.

**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).

**Amendments to Applications:** All changes, edits or updates to any application before the court must be filed in accordance with the practice manual **prior** to the hearing date. All modifications must be reviewed with the Respondent in their best language prior to submission.

**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.

**Witnesses:** In order to comply with General Order No. 2020-08-2, any witnesses in which a sworn notarized statement would not be appropriate, parties must seek approval to appear in person or by telephone. Parties must submit an appropriate motion and order with their witness list no later than **fifteen (15) days in advance** of the individual calendar hearing. This list must provide the names of witnesses, method of attendance (in-person or telephone) and a brief summary of the actual testimony expected to be given. This summary must be more than a generic statement and provide a basis for the

Judge to determine relevancy of requested witness. Failure to comply with the above will result in witnesses not being allowed to enter the building.

### **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.

### **DETAINED HEARINGS**

Detained hearings will be conducted as follows: Attorneys are permitted to appear in person for any scheduled hearing but each attorney must give notice of their intent to attend in person. Any attorney-at-law for any party may request to appear telephonically. Attorneys for the parties must provide a landline phone number at which they may be reached. All notices must be received by the Court no later than 48 hours prior to the hearing date and time. Attorneys for the respondent must confer with the respondent in advance of the hearing and ensure that the respondent consents to the telephonic appearance.

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.

## NON DETAINED

### INDIVIDUAL CALENDAR HEARINGS

Pursuant to 8 C.F.R. § 1003.25(c), Counsel and respondent(s) may appear by telephone at an evidentiary hearing with the consent of the alien involved after the alien has been advised of the right to proceed in person or video teleconference. Counsel for the alien involved should file a motion 15 days in advance of the scheduled hearing requesting a telephonic evidentiary hearing. Such motion must include a sworn affidavit or declaration from the alien involved stating that he or she has been advised of the right to proceed in person or video teleconference and waives that right. Counsel and respondent must be together and they must appear through a landline. The telephone number must be included in the motion for the telephonic evidentiary hearing. Unless otherwise ordered by the individual immigration judge, the respondent must file any changes, corrections or amendments to all pending applications and or to his or her declaration(s) in accordance with the time limits set by the Immigration Court Practice Manual in advance of the telephonic evidentiary hearing. Failure to respond when the case is called may result in the conclusion that the respondent has failed to appear.

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, Counsel for the respondent shall submit any stipulations of fact or law that the parties have reached (meaning the parties have agreed on) and if applicable delineate any particular social group(s).

The above must be filed with the Court and served on the Department of Homeland Security no later than fifteen (15) days prior to the individual calendar hearing.

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

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

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James F. McCarthy, III

Assistant Chief Immigration Judge