

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
BOSTON, MASSACHUSETTS

STANDING ORDER BOS 20-01

TELEPHONIC APPEARANCES OF COUNSEL, RESPONDENTS,
WITNESSES, AND OTHER INDIVIDUALS AT MASTER CALENDAR AND
INDIVIDUAL HEARINGS

IT IS HEREBY ORDERED that, effective immediately and continuing until further order of the court:

A. MASTER CALENDAR HEARINGS

- 1) Any attorney or representative for any party may appear telephonically in master calendars before the Boston Immigration Court without prior approval and without filing a motion in advance. Attorneys who would like to appear telephonically for a particular case should inform the Boston Immigration Court, main desk, at least two (2) business days in advance of the hearing by:
 - a) Calling 1-617-565-3080,
 - b) Providing the alien number, the name of the judge, and the best phone number at which the attorney will answer.

Also during this time period, requests to continue cases due to COVID-19 concerns should be filed with as much notice as possible.

- c) Any individual who wishes to appear telephonically does so with the understanding that any paper or electronic filings to be considered by the Court must be in the official record of proceeding in accordance with any deadlines set by the Court or, if none, in accordance with the filing deadlines set forth in the Immigration Court Practice Manual. No additional filings 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.

- d) Any party appearing telephonically waives the right to object to admissibility of any document offered in Court on the sole basis that they are unable to examine the document.
- e) If the Court is unable to reach counsel by telephone for the hearing, counsel will thereafter be required to appear in-person at any rescheduled hearing.
- f) In-court proceedings shall be limited to attorneys, parties, witnesses, security officers, and any other necessary people, which will be determined by the presiding judge. Hearings remain open to the public, space permitting. Courtrooms have limited seating capacity at present, as posted.
- g) Counsel or accredited representatives for respondents are strongly encouraged to file written pleadings in advance of the telephonic master hearing in accordance with Immigration Court Practice Manual (ICPM). For an example of acceptable written pleadings, see ICPM, Appendix L (April 10, 2020) at <https://www.justice.gov/eoir/page/file/1258536/download>.

B. INDIVIDUAL HEARINGS

- 1) The individual Immigration Judge, in his or her discretion, and upon consent of the respondent and DHS, may conduct a telephonic merits hearing in accordance with 8 C.F.R. § 1003.25(c). For any merits hearing, a timely motion for telephonic appearance is required in advance of the hearing and must include a sworn affidavit or declaration from the respondent indicating that he or she has been advised of the right to proceed in person or by VTC and waives that right or orally affirms under oath and on the record that he or she has been advised of the right to proceed in person or by VTC and waives that right. *See* 8 C.F.R. § 1003.25(c).
- 2) Unless otherwise ordered by the individual Immigration Judge, all filings, including but not limited to applications, pretrial motions, briefs, and supplemental documents, must be filed in advance of the telephonic merits hearing in accordance with the ICPM. No filings, other than rebuttal or impeachment evidence, will be accepted in Court on the date of the telephonic merits hearing. *See* ICPM, Chap. 3.1(b)(ii)(A).
- 3) The parties may agree to request that the Court issue a decision based solely on the sworn application(s) and documentary evidence, consistent with *Matter of Fefe*, 20 I & N Dec. 116 (BIA 1989) and *Matter of E-F-H-L-*, 26 I&N Dec. 319, 322 fn. 3 (BIA 2014), *vacated on other grounds* 27 I&N Dec. 226 (A.G. 2018). If the parties reach such an agreement, they are encouraged to file a Joint or Unopposed Motion to Adjudicate Application Without Evidentiary Hearing on the Merits, in advance of any hearing. Such motion must include all required stipulations. If no such agreement is reached in advance of the hearing, the parties may make an oral motion at the outset of the hearing. The **Joint or Unopposed Motion to Adjudicate Application Without Evidentiary Hearing on the Merits** must include at a minimum the following:

- a. A sworn affidavit or declaration from the respondent indicating:
- 1) that the respondent has been advised of the right to proceed in person or by VTC and waives that right;
 - 2) that any application or request for relief on which the respondent is proceeding and any affidavits or supporting declarations have been read to the respondent in a language the respondent speaks and understands;
 - 3) that any application or request for relief and all documentary evidence is true, correct and complete to the best of the respondent's knowledge; and
 - 4) that any other pending relief applications are withdrawn or to be held in abeyance and a statement from the parties regarding their respective positions on appeal;
- b. A statement from DHS counsel regarding the status of requisite identity, law enforcement, or security investigations or examinations, and, if completed, the applicable expiration date in accordance with 8 C.F.R. § 1003.47(a); and
- c. If the respondent is applying for voluntary departure under INA §§ 240B(a) or (b), his or her counsel or accredited representative must clearly indicate in the Motion that he or she has explained to the respondent the conditions that attach to voluntary departure as set forth in 8 C.F.R. § 1240.26 and *Matter of Gamero*, 25 I&N Dec. 164 (BIA 2010). The Motion must also include a sworn affidavit or declaration from the respondent that he or she understands the conditions that attach to voluntary departure, and that he or she accepts such conditions should voluntary departure be granted in the exercise of the Court's discretion. *See id.* For the purposes of post-conclusion voluntary departure during the period this Standing Order is in effect, the parties should assume the Court would set the minimum bond of \$500 and grant the maximum period of sixty (60) days to depart.

C. GENERAL PROVISIONS

- 1) An Immigration Judge may, in his or her discretion, halt any telephonic hearing, and the parties may be required to attend a future in-person hearing on a date to be determined. Further, nothing in this Standing Order should be interpreted to supplant an Immigration Judge's authority to manage his or her cases.

This order supersedes all prior Standing Orders of the Boston Immigration Court.

JOSE SANCHEZ Digitally signed by JOSE SANCHEZ
Date: 2020.10.08 08:38:25 -04'00'

Jose A. Sanchez
U.S. Assistant Chief Immigration Judge
Boston Immigration Court