

MASTER CALENDAR CHECKLIST FOR THE IMMIGRATION JUDGE

THE PRO SE RESPONDENT

1. Go on the record, that is, turn on the tape recorder, for each master calendar hearing session.

2. Open the hearing:

a. State the nature of the hearing as a master calendar

b. State the name of the respondent and file number from the Notice to Appear (NTA)

c. State the date of the hearing, the place, and your own name

d. State the names of the attorneys

e. State the name of the sworn immigration court interpreter

3. Address the respondent:

a. What language you speak and understand best?

b. What language did you first speak growing up as a small child?

c. Place the respondent under oath

d. What is your true name?

4. Verify service of the NTA

a. Show the NTA to the respondent and ask him or her if he received a copy

b. If the respondent states that he or she did not get a copy of the NTA, supply one.

c. Mark the NTA as Exhibit 1.

5. Explain the nature of the removal hearing and the contents of the NTA

6. Verify the respondent's address

a. Explain the address reporting requirement to the respondent and furnish the blue Form EOIR 33

7. Explain the consequences of failing to appear in future hearing

a. Specify to the respondent the forms of relief that will be lost for a period of 10 years if he or she fails to appear for the upcoming hearing. Mention specifically adjustment of status, change of status, cancellation of removal, voluntary departure and registry.

8. Explain to the respondent the right to counsel

a. Stress that volunteer counsel may be able to represent the respondent free of charge if he or she is without funds to retain the services of an attorney

b. Give the respondent the legal assistance office list for your jurisdiction and, if the respondent lives outside your jurisdiction, furnish the legal assistance office list for his home area

c. Ask the respondent if he or she understands the explanation of the right to counsel

d. Then ask the respondent if he or she wishes a postponement to find an attorney.

e. If the respondent chooses to take a postponement to find an attorney, stress to him or her the necessity of contacting all of the offices on the legal assistance office list.

9. If the respondent declines counsel, proceed with the hearing by explaining to the respondent the rights to object to evidence, to cross-examine witnesses, and to present evidence and witnesses, and to speak in his or her own behalf.

10. Get a pleading to the NTA, asking the respondent to admit or deny each factual allegation and charge

a. The charge must be explained to the respondent in non-technical language

b. Ask the respondent if he or she understands the charge, then ask if the charge is admitted or denied

11. Ask the respondent if he or she has anything to say or present in defense

a. Explain to the respondent that this means to either present at this time or to tell you about if the items are not present, either witnesses, papers or documents which might tend to show that the charge in the case is not correct or which might show that the respondent has any right to be in the United States. In addition, ask the respondent if he or she has anything to say in his or her defense

b. Consider whatever defense the respondent presents and then make a ruling as to whether or not the charge is sustained

12. Relief from removal and deportation

a. Examine the respondent to determine what remedies against deportation may be available for him or her

b. What is your age?

c. Are you legally married? If so, what is the citizenship status of your spouse? If your spouse is an American citizen or an immigrant, did he or she file visa petition on your behalf?

(1). If a visa petition has been filed, ask the respondent if he or she has any proof of the filing and, if not, ask Government counsel if the government immigration file shows a filing

(2). Ask if the visa petition has been approved by the Government and, if so, is the respondent eligible to apply in the removal hearing for section 245 adjustment of status?

d. Were your parents or grandparents ever United States citizens?

(1). If so, determine the facts necessary to ascertain whether the respondent may have acquired or derived United States citizenship through parentage

(2). If there is a citizenship issue, furnish the respondent the Form N-600 Application for Certificate of Citizenship and tell the respondent to complete it according to the instructions and gather the documents called for in the application. Tell the respondent to file the original application and documents with the DHS and also file with the court a copy of the application and documents. This will give the judge an accurate blueprint of the nature of the claim to citizenship

e. Have you any children or stepchildren who are either United States citizens or lawful permanent resident immigrants?

(1). If yes, learn the ages of the children and determine whether the mother or mothers of the children were ever United States citizens or lawful permanent residents as this would be germane to whether the respondent could apply for cancellation of removal as a nonpermanent resident

f. In what year in your life did you first come to the United States?

(1). This information is relevant to the question of cancellation of removal eligibility.

(2) If the respondent's time in this country indicates possible eligibility for cancellation of removal, interrogate him or her with regard to any departures from the United States and whether or not he or she has been the subject of any prior removal or deportation hearing or whether he or she has been arrested by immigration officers in this country and returned to his or her home a country without an immigration court hearing, as this is relevant to the question of physical presence continuity under the cancellation of removal law

g. Have you ever been convicted of any crimes?

(1). Convictions are relevant to the issue of relief and the Government attorney at this point should be asked whether the Government file shows any criminal record for the respondent. If yes, the attorney should be asked to read of those convictions and this information should be translated to the respondent and he or she should be asked if that is his or her true record.

h. What is your occupation?

(1). Bear in mind that some respondents may have occupations that qualify them for immigration based upon a labor certification. Ask the respondent if he or she has ever received a labor certification from the United States Department of Labor and, if so, has his or her employer filed the Form I-140 visa petition on his or her behalf

(2) If a visa petition has been filed, ascertain the status of the petition

13. Explain to the respondent what apparent remedies are available to allow him to avoid an order of removal and deportation.

14. If the alien is eligible for a remedy that requires a written application, furnish the application to the alien and tell him or her to return to an upcoming master calendar with the application completed. Explain the filing procedure and the procedure of registering for fingerprinting.

15. If the alien is not eligible for any relief, make a decision so finding and explain to the alien about the right to appeal.

16. If the alien is eligible only for voluntary departure, explain to the alien the two types and inquire which type he or she chooses, pre-conclusion or conclusion.

a. A voluntary departure can be on a summary written form if the alien did not contest the facts and the charge in the NTA, there are no issues of law or fact present if all was admitted, and the alien made no defense to the charge. Otherwise, an oral decision must be dictated.