



U.S. Department of Justice

Executive Office for Immigration Review

Office of the Chief Immigration Judge

Chief Immigration Judge

5107 Leesburg Pike, Suite 2500
Falls Church, Virginia 22041

August 18, 2004

MEMORANDUM

TO: All Assistant Chief Immigration Judges
All Immigration Judges
All Court Administrators
All Support Staff

FROM: The Office of the Chief Immigration Judge

SUBJECT: Interim Operating Policies and Procedures Memorandum No. 04-06:
Hearings Conducted through Telephone and Video Conference

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I. INTRODUCTION

This OPPM supersedes OPPM No. 04-04, Hearings Conducted Through Telephone Conference and Video Conference, and sets forth new interim uniform procedures for conducting and handling Telephone and Video Conference hearings. These procedures are interim in nature, and will continue to be revised and reformulated to reflect any changes that may be necessary.

II. CREATING A CLEAR RECORD OF THE LOCATION OF THE HEARING

The regulation at 8 C.F.R. § 1003.14 provides that “[j]urisdiction vests, and proceedings before an Immigration Judge commence, when a charging document is filed with the Immigration Court by the Service [now Department of Homeland Security (DHS)].” When a charging document is filed with an Administrative Control Immigration Court pursuant to 8 C.F.R. § 1003.11, the proceedings may actually take place in a location other than where the charging document is filed. Thus, it is important to record the actual location of the hearing.

An immigration judge who conducts a hearing either telephonically or through video conference must create a clear record of where the hearing is taking place. At the beginning of each session of the hearing, the immigration judge must identify himself or herself for the record. The immigration judge must note that he or she is sitting via telephone or video conference and identify the specific hearing location where he or she is conducting the hearing (i.e., **the location where the case is docketed for hearing**). All hearing locations are published in the Office of the Chief immigration judge’s Administrative Control List. This list is made available to the public pursuant to 8 C.F.R. § 1003.11, and is available on the Executive Office for Immigration Review’s (EOIR) Intranet and Internet.

In addition, the immigration judge should note the location of the respondent, the respondent’s counsel or representative, if any, and counsel for the DHS, in order to create a clear and complete record. For example, at the beginning of a hearing conducted through video conference by an immigration judge in Chicago who is conducting a hearing in our Kansas City, Missouri, hearing location, the immigration judge should state: “This is Immigration Judge John Doe of the Chicago Immigration Court sitting, via video conference, at the hearing location in Kansas City, Missouri. The respondent, the respondent’s attorney, and the attorney for the DHS are all present in Kansas City, Missouri.” In this example the immigration judge identified Kansas City, Missouri, as the hearing location because the case was docketed for a hearing in Kansas City, Missouri. The immigration judge’s participation in the hearing through video conference did not change the hearing location.

The immigration judge must follow the steps outlined above each time he or she commences a session of a hearing through video or telephone conference. In addition, the circuit law that is to be applied to proceedings conducted via telephone or video conference is the law governing the hearing location (i.e., **the location where the case is docketed for hearing**). In the example set forth above, the law applied would be that governing Kansas City, Missouri, the United States Court of Appeals for the Eighth Circuit.

III. ORDERS AND DECISIONS ISSUED IN HEARINGS THROUGH TELEPHONE OR VIDEO CONFERENCE

Any order or decision by an immigration judge in a hearing conducted through video or telephone conference where the case was docketed for a hearing location (as opposed to an administrative control court/base city court) must include the hearing location (not the administrative control court/base city court) in the caption. The order or decision must include a statement that the hearing was conducted through video or telephone conference and a statement that sets forth the administrative control court and address for purposes of correspondence and post-hearing motions.

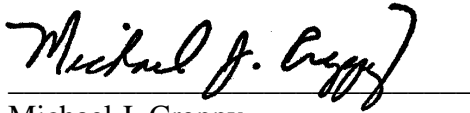
In an effort to promote uniformity in procedures, the following examples are provided. It should be noted that the ANSIR **minute order form** will be modified to create this standard form. In the interim, the court should create a Word Perfect version of each of the minute orders (Attachment A and B) until IRM can program them into ANSIR and subsequently CASE.

1. Attachment A is an example of an ANSIR **Minute Order** issued by an immigration judge who conducted a video conference hearing for a case docketed at an administrative control court/base city court. In this example, a New York immigration judge conducted a hearing through video conference for a case docketed in Detroit, Michigan. Note that a minute order from the Detroit Immigration Court is used and at the bottom of this order there is a notation that the matter was handled through video or telephone conference.
2. Attachment B is an example of an ANSIR **Minute Order** issued by an immigration judge who conducted a video conference hearing for a case docketed at a “hearing location” (a site other than an administrative control court/base city court). In this example, a Chicago immigration judge conducted a hearing through video conference for a case docketed in Kansas City, Missouri. Note that the “hearing location” is listed in the heading and that the address for the administrative control court and a notation that the matter was handled through video or telephone conference are listed at the bottom of the order.
3. Attachment C is an example of a **Written Decision/Order/Other Memoranda** issued by an immigration judge who conducted or is conducting a video conference hearing for a case docketed at a “hearing location” (a site other than an administrative control court/base city court). In this example, a Chicago immigration judge rendered a written decision for a case docketed in Kansas City, Missouri. Note that the “hearing location” is listed in the heading, and a sentence has been inserted in the body of the decision indicating that the matter was heard by video conference followed by a footnote that sets forth the specific hearing location and the address of the administrative control for this hearing location.

4. Attachment D is an example of the appropriate **heading and caption for the Oral Decision of the Immigration Judge** where the hearing was conducted by video conference. Note that in rendering the oral decision the immigration judge must inform the transcriber to place the hearing location (the place where the case was docketed for hearing) in the heading. The immigration judge will also instruct the transcriber to state in the body of the decision that the matter was heard by video conference at the hearing location (i.e., the location where the case was docketed for hearing) followed by a footnote. The footnote should state that “all correspondence and documents pertaining to the case must be filed with the administrative control court” at the listed address. However, if this hearing was conducted by video conference for a case docketed at an administrative control court/base city court, it would not be necessary to include the above mentioned footnote.

IV. CONCLUSION

This memorandum has been issued in an effort to promote efficiency of operations and uniformity of procedures in handling or conducting immigration hearings through video or telephone conference.



Michael J. Creppy
Chief Immigration Judge

Attachments

ATTACHMENT A

**IMMIGRATION COURT
1155 BREWERY PARK BLVD., STE 450
DETROIT, MI 48207**

In the Matter of: (Name)

File No: A XX-XXX-XXX

Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on May 28, 2004. This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

- The respondent was ordered removed from the United States to _____ or in the alternative to _____.
- Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ alternative to _____.
- Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of \$ _____ with an alternate order of removal to _____.
- Respondent's application for asylum was () granted () denied () withdrawn.
- Respondent's application for withholding of removal was () granted () denied () withdrawn.
- Respondent's application for cancellation of removal under section 240A(a) was () granted () denied () withdrawn.
- Respondent's application for cancellation of removal was () granted under section 240A(b)(1) () granted under section 240A(b)(2) () denied () withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- Respondent's application for a waiver under section _____ of the INA was () granted () denied () withdrawn or () other.
- Respondent's application for adjustment of status under section _____ of the INA was () granted () denied () withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
- Respondent's status was rescinded under section 246.
- Respondent is admitted to the United States as a _____ until _____.
- As a condition of admission, respondent is to post a \$ _____ bond.
- Respondent knowingly filed a frivolous asylum application after proper notice.
- Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision
- Proceedings were terminated.
- Other _____

Date:

Hearing Conducted by: Telephone Conference/Video Conference

Appeal: Waived/Reserved

Appeal Due By: _____

(Name)

Immigration Judge

ATTACHMENT B

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
HEARING LOCATION: KANSAS CITY, MISSOURI**

In the Matter of: (Name)

File: A XX-XXX-XXX

Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of oral decision entered on _____. This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

- The respondent was ordered removed from the United States to _____.
- Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ alternative to _____.
- Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of _____ with an alternative order of removal to _____.
- Respondent's application for asylum was () granted () denied () withdrawn.
- Respondent's application for withholding of removal was () granted () denied () withdrawn.
- Respondent's application for withholding/deferral of removal under Article 3 of the Torture Convention was () granted () denied () withdrawn.
- Respondent's application for cancellation of removal under Section 240A(a) was () granted () denied () withdrawn.
- Respondent's application for cancellation of removal under Section 240A(b) was () granted () denied () withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- Respondent's application for a waiver under Section _____ of the INA was () granted () denied () withdrawn () other.
- Respondent's application for adjustment of status under Section 212c of the INA was () granted () denied () withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
- Respondent's status was rescinded under Section 246.
- Respondent is admitted to the United States as a _____ until _____.
- As a condition of admission, respondent is to post a \$ _____ bond.
- Respondent knowingly filed a frivolous asylum application after proper notice.
- Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the immigration judge's oral decision.
- Proceedings were terminated, without prejudice.
- Proceedings were administratively closed.
- Other: _____

Date:

Administrative Control Court: Immigration Court, 55 East Monroe, Suite 1900, Chicago, IL 60603

Hearing conducted by: Telephone Conference/Video Conference

Appeal: WAIVED/RESERVED (A/I/B)

APPEAL DUE BY: _____

(Name)

Immigration Judge

ATTACHMENT C

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
HEARING LOCATION: KANSAS CITY MISSOURI¹**

DECISION OF THE IMMIGRATION JUDGE

The hearing in this matter was conducted in Kansas City, Missouri, through video conference pursuant to INA § 240(b)(2)(A)(iii).

¹ Pursuant to 8 C.F.R. § 1003.11, all correspondence and documents pertaining to this case must be filed with the administrative control court: Immigration Court, 55 East Monroe, Room 1900, Chicago, Illinois 60603.

ATTACHMENT D

TRANSCRIBER CAPS AND CENTERED AT THE TOP OF THE PAGE PLEASE CREATE THE FOLLOWING HEADING:

UNITED STATES DEPARTMENT OF JUSTICE - NEXT LINE
 EXECUTIVE OFFICE FOR IMMIGRATION REVIEW - NEXT LINE
 IMMIGRATION COURT - NEXT LINE
 HEARING LOCATION: KANSAS CITY, MISSOURI

PLEASE COME DOWN THREE SPACES AND CREATE THE FOLLOWING CAPTION:

IN THE MATTER OF:)	
)	FILE NO.: A XX-XXX-XXX
)	
(NAME))	
RESPONDENT)	

TRANSCRIBER THE TITLE WILL BE AS FOLLOWS: BOLD CAPS AND CENTERED **“THE ORAL DECISION OF THE IMMIGRATION JUDGE”**

Proceed to dictate your Oral Decision and be certain that the first paragraph includes the following statement; “The hearing in this matter was conducted in Kansas City, Missouri, through video conference pursuant to INA § 240(b)(2)(A)(iii)”. Then remind the transcriber to add the following footnote “Pursuant to 8 C.F.R. § 1003.11, all correspondence and documents pertaining to this case must be filed with the administrative control court” and be certain to list the address.

The body of the decision should then proceed as usual.