



U.S. Department of Justice

Executive Office for Immigration Review

Office of the Chief Immigration Judge

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May 6, 1993

MEMORANDUM TO: All Assistant Chief Immigration Judges
 All Immigration Judges
 All Management Officers
 All Support Staff

FROM: Thomas L. Pullen *Thomas L. Pullen*
 Acting Chief Immigration Judge

SUBJECT: Operating Policies and Procedures Memorandum
 93-1: Immigration Judge Decisions and
Immigration Judge Orders

This Operating Policies and Procedures Memorandum (OPPM) is effective on May 17, 1993, and supersedes OPPM 88-4, Memorandum of Immigration Judge Decision, dated May 13, 1988 and OPPM 91-4, Immigration Judge Decisions, dated June 26, 1991.

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The objective of this OPPM is to establish and/or continue EOIR policies and procedures relating to Immigration Judge decisions that will, to the maximum extent possible, provide uniformity and consistency in Immigration Judge proceedings.

A. WRITTEN DECISIONS

This OPPM continues the existing EOIR policy established in June 1991, that requires all written (reserved) decisions to be issued as follows:

1. Detained case: written decision must be issued within 10 business days from the final hearing date.
2. Non-detained case: written decision must be issued within 60 calendar days from the final hearing date.
3. Extensions: approval to extend the time for issuing a written decision must be obtained from the appropriate Assistant Chief Immigration Judge (ACIJ).

If you, as an Immigration Judge, are in an Office of the Immigration Judge (OIJ) without a law clerk, or if the law clerk in your OIJ is over-burdened, you may contact your ACIJ who will attempt to find assistance for you from other law clerks.

B. ORAL DECISIONS

1. On the Record: This OPPM continues the EOIR policy established in June 1991, that an oral decision must be separate from all testimony and findings and be made on the record after the parties have rested their case. The oral decision must be identified on the record (tape) as "the decision of the Immigration Judge".
2. Decision "Clean up": This OPPM continues the EOIR policy established in June 1991, that there can be only one decision by an Immigration Judge in a specific case. A second effort involving either another oral decision or the substitution of a written decision (usually after an appeal has been filed) is not permitted. The "clean up" of an oral decision must be limited to the review of the transcript for corrections in punctuation, grammar and syntax.

3. The Official Record of an Oral Decision: This OPPM continues the EOIR policy established in May 1988, that an Immigration Judge will issue, to each party at the time an oral decision is rendered, a written summary of that oral decision (for example, see the Immigration Judge orders listed below). If the oral decision is appealed (except in bond redetermination proceedings), the full text of the oral decision will be transcribed and will become the official decision in that proceeding.

C. IN ABSENTIA DECISIONS

This OPPM continues the EOIR policy established in June 1991, that requires each in absentia decision to be rendered on the same date as the scheduled hearing for the alien in question. To do otherwise raises the issue of proper notice.

D. THE IMMIGRATION JUDGE ORDERS

1. Immigration Judge Generic Orders: Since EOIR was created, over 200 Immigration Judge form decisions (many of which covered the same ground) were created and eventually added to the ANSIR system. However, only three of these form decisions were offered by EOIR as "generic orders" which could be generated and printed by the ANSIR system and used nationwide. The three "generic orders" currently in use by EOIR are: EOIR-1 - Change in Custody Status; EOIR-6 - Voluntary Departure; and EOIR-7 - Order of Deportation.

In an effort to assist the Immigration Judges in handling their workload by simplifying the use of form decisions (especially when on detail or at a Criminal Alien Program (CAP) hearing location) the Immigration Judge Advisory Committee, with the assistance of many other concerned Immigration Judges, developed eleven new "generic orders" in addition to the three currently in use by EOIR nationwide (see list below). These fourteen "generic orders" constitute our best efforts to consolidate variations of repetitive orders into uniformity and we encourage you to use these "generic orders" whenever possible. Also, eleven of the "generic orders" have been pre-printed as multi-part forms for use when ANSIR is not available.

We realize that future events (including changes in the law or regulations) may necessitate revision or addition to these Immigration Judge generic orders. As sitting Immigration Judges, you are in the best position to bring to OCIJ's attention the need for such revision or addition. I encourage you to do so by sending your recommendations to your ACIJ.

2. List of Generic Orders: The following is a list of the 14 Immigration Judge generic orders:

<u>Description of the Order</u>	<u>ANSIR CODE</u>	<u>Printed Form #</u>
Change in custody status	1T *	EOIR-1
Motion to Reopen and Motion to Reconsider	2T *	EOIR-2
Stay of deportation/exclusion in connection with Motion to Reopen	1Q	EOIR-5
Voluntary Departure	3T *	EOIR-6
Respondent has made no application for relief, deported	4T *	EOIR-7
Motion for Change of Venue: Granted Denied	5T * 3Q	EOIR-34 EOIR-34
Termination	6T *	EOIR-35
Failure to Appear	7T *	EOIR-36
Summary of oral decision in deportation cases	6Q	EOIR-37
Summary of oral decision in exclusion cases	7Q	EOIR-38
Administratively Closed	8T *	EOIR-39
Extension of time to file a brief	8Q	(None)
Motion to Withdraw Counsel	2Q	(None)
Registry	4Q	(None)

3. Printing the Generic Orders: Attached to this OPPM are examples of the 14 Immigration Judge generic orders. The orders are printed by ANSIR through two different methods. Also, eleven of the orders have been pre-printed as multi-part forms for use when ANSIR is not available.

a. Automatically Generated by ANSIR:

(1) Eight of the orders (see * on above list) are automatically generated by ANSIR when unique decision information is entered into the system. The local user will have an option to have ANSIR generate or not generate these orders. These defaults are set each time the user enters case data maintenance, just as currently done for the EOIR 1,6 and 7 orders. ANSIR will print an order with all case related data (i.e., name, A-number, hearing date) and will print language on the order that is specific to the Immigration Judge's decision. For example, if the Judge's decision was to grant a request, then only the language for a "grant" will be printed by ANSIR (only an example of one decision for each order is attached to this OPPM).

(2) These eight orders can also be generated upon request by entering the appropriate ANSIR two-digit code as shown in the above list. This will be useful when attempting to reprint an order or when the user opted, when accessing the data base maintenance, to not print the order. This is a new feature. Currently, if you require an EOIR 1,6, and 7, you must indicate so when accessing data base maintenance and there is no option to print an order on demand using the ANSIR two-digit code.

b. Use of Two-Digit Code: In the remaining six orders, an order will be generated by ANSIR only when a two-digit code (see above list) is entered into the system. ANSIR will print case related data (i.e., name, A-number, hearing date) on the order and will also print all the decision options (granted, denied, etc.) that could be made by a Judge in that

particular situation. The Judge must then indicate on this order, usually by checking a box, the action actually taken. This is the same process currently used for all ANSIR orders other than the EOIR 1,6, and 7.

4. Proper Use of the EOIR-6 and EOIR-7 Orders: The use of the "generic order" for when a "Respondent has made no application for relief (EOIR-7)" must be strictly limited to cases in which the respondent's admissions establish deportability and in which no relief from deportation is sought. If any issues of law or fact are contested, the use of an EOIR-7, hand-modified or otherwise, is inappropriate. Similarly, if there are no contested issues of deportability and the only relief sought is voluntary departure, then the use of the "generic order" for "Voluntary Departure (EOIR-6)" is proper.

Attachments