



U.S. Department of Justice

Executive Office for Immigration Review

Office of the Chief Immigration Judge

Chief Immigration Judge

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July 30, 2008

MEMORANDUM

TO: All Immigration Judges
All Court Administrators
All Attorney Advisors and Judicial Law Clerks
All Immigration Court Staff

FROM: David L. Neal 
Chief Immigration Judge

SUBJECT: Operating Policies and Procedures Memorandum No. 08-04:
*Guidelines for Telephonic Appearances by Attorneys and Representatives
at Master Calendar and Bond Redetermination Hearings*

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I. Introduction

This Operating Policies and Procedures Memorandum (OPPM) provides guidance for judges regarding requests for telephonic appearances by attorneys and representatives at master calendar and bond redetermination hearings. Chapter 4 of the *Immigration Court Practice Manual* contains guidance for attorneys and representatives.

II. Background

Absent express permission from the judge, attorneys and representatives are required to appear in person for all hearings. As a practical matter, however, immigration courts are sometimes located in cities or locations that are distant from a respondent's attorney or representative, especially in those instances in which the court or hearing location is at a detention facility. Attorneys and representatives often request permission to appear telephonically at a master calendar or bond redetermination hearing. This OPPM provides guidance on factors that judges should consider when ruling on a request by an attorney or representative to appear telephonically at such a hearing.

III. Adjudicating Motions to Appear Telephonically at Master Calendar and Bond Redetermination Hearings

Whether to grant a motion for a telephonic appearance by an attorney or representative at a master calendar or bond redetermination hearing is within the discretion of the judge. Such motions should be adjudicated on a case-by-case basis.

When a motion for a telephonic appearance is made, the judge should carefully weigh the circumstances and interests of both parties, and any appropriate court interests, before making a determination.

When an attorney or representative requests to appear telephonically at a master calendar or bond redetermination hearing, the judge should consider, among other things:

- why the attorney or representative is not able to appear in person
- the anticipated length of the hearing, and the complexity and significance of the issues to be addressed
- the distance of the court from the location of the attorney or representative
- appropriate personal exigencies of the attorney or representative
- a legitimate and unavoidable scheduling conflict with another court arising subsequent to the scheduling of the master calendar or bond redetermination hearing

- whether the attorney or representative is appearing pro bono for the respondent (*see* OPPM 08-01: *Guidelines for Facilitating Pro Bono Legal Services*)
- circumstances calling for the attorney or representative to be physically present at the hearing (e.g., the respondent is a minor)
- the response, if any, of the opposing party
- the likelihood of any serious disruption of the day's docket
- significant technological obstacles (e.g., insufficient telephone lines in a detained court)
- any history of the attorney or representative abusing the privilege of telephonic appearances (including any history of technical difficulties reaching that attorney or representative by telephone)

In granting a motion for a telephonic appearance, the judge may set reasonable conditions for the attorney or representative to appear telephonically.

IV. Conclusion

Judges should be mindful of factors to be considered in exercising their discretion whether to approve requests for telephonic appearances by attorneys and representatives at master calendar and bond redetermination hearings. If you have any questions about this OPPM, please contact your Assistant Chief Immigration Judge.