



U.S. Immigration
and Customs
Enforcement

APR 5 2007

MEMORANDUM FOR: Assistant Directors
Deputy Assistant Directors
Field Office Directors
Deputy Field Office Directors

FROM: John P. Torres
Director

SUBJECT: Verifying Removability Prior to Removal

This memorandum is to serve as a reminder that in advance of all removals, each case officer has the responsibility of verifying that conditions allowing the removal of an alien under an order of removal have not changed. Each case officer has the responsibility to verify that no bars to removal are in effect before the execution of the removal order. These bars can be stays of removal issued by an U.S. Immigration and Customs Enforcement (ICE) official or judicial authorities. In the case of an alien under an *in absentia* order, a motion to reopen automatically stays the alien's removal.

The established procedure for judicial stays was set forth in the policy guidance memorandum "New Procedures for Detained Aliens with Judicial Stays" dated November 29, 2006, guideline number six which states in part:

"Each Field Office will ensure that all officers understand that it is their responsibility to confirm that all stays have been lifted prior to scheduling a removal. Case officers may confirm the existence of a pending stay order through a variety of means, including contacting the AUSA, the applicable court, or through utilization of the court's Public Access to Court Electronic Records (PACER) system, in order to verify the current status of stay cases prior to scheduling removal. A supervisor must verify that all stays have been lifted prior to the removal of the alien and annotate the memorandum to file."

To confirm that a stay issued by an ICE official has been lifted, a thorough review of the

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In the case of aliens under *in absentia* orders, the officer has various means to verify that there are no pending motions that would result in an automatic stay of removal. The officer can utilize the Executive Office of Immigration Review's (EOIR) national automated line at (800) 898-7180, contact the local EOIR office or the local ICE Assistant Chief Council to verify that no motion has been filed that would bar removal.

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We at HQDRO appreciate your efforts in ensuring that DRO achieves our objective of not removing aliens who have been granted a stay of removal. Please ensure that all employees within your area of responsibility are provided a copy of this memorandum and comply with the instructions therein.

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