

IMMIGRATION JUSTICE CAMPAIGN



Remote Bond – A Brief Guide

Last Updated: 11/3/2022

First, some general information about bond hearings and appearing telephonically:

I. Bond Hearings

After a noncitizen is detained, ICE will make an initial custody determination (whether to release the individual on his or her own recognizance, whether to set a bond amount, or whether to continue to detain without the option for release on bond). Once that initial determination has been made, the immigration judge has the authority to conduct a bond hearing (formerly, a custody redetermination hearing) to redetermine the individual’s custody status and, hopefully, order release.

Bond hearings (custody redetermination hearings) are usually conducted simultaneous to detained master calendar hearings but are distinct proceedings from proceedings for relief (usually, for asylum). **An attorney has the option of entering an appearance exclusively for the purpose of representing the noncitizen in bond or custody proceedings, and, if so, is not responsible for representation on the merits. In order to enter your appearance exclusively for the purpose of bond or custody proceedings, you should check the box for “custody and bond proceedings only” in your [entry of appearance form, EOIR-28](#).**

Bond hearings are not scheduled automatically. **They must be requested on oral or written motion.** Your client may already have requested a bond hearing; in that case, the IJ may have already scheduled the bond hearing. **It is imperative that when you take a case, you determine whether your client already has a bond hearing scheduled.** In other instances, you as the attorney may need to request a bond hearing to be scheduled. Please see the Justice Campaign’s online materials for a [sample motion for custody redetermination](#) (i.e., motion to schedule a bond hearing).

a. Appearing Telephonically

To appear telephonically in immigration court, attorneys must submit a Motion to Appear Telephonically in advance of the hearing (COVID protocols have made this largely automatic, but that can be changed. Please speak to a mentor about this). Absent COVID protocols, a motion is required. Please refer to materials on the Justice Campaign website for a sample motion. **It is very important that these motions clearly state the reason for the request in detail because the IJ is not required to grant such motions.**

When your hearing is set, you will get a time for that hearing but it largely represents a time slot of 3-4 hours. **The judge needs to be able to reach you when he or she calls the phone number provided. You need to be available through the entire court session to receive the call.** The court staff is not able to guess what time a judge will be calling an attorney—there are simply too many factors to consider.

If you step away from your desk, for any reason, during the time slot, you risk failing to appear for your hearing. First, your client could be left without representation at his or her bond hearing if you miss the call. Second, counsel not present to take the phone call will generally not be permitted to appear by phone at subsequent hearings. Finally, the ability of other detainees to obtain remote counsel could be jeopardized. If the judge cannot reach many attorneys by phone when needed, it is more likely he or she could systematically deny more Motions to Appear Telephonically.

The court provides an interpreter for all hearings where it is necessary in immigration court. You do not need to worry about this piece. The court interpreter may be present in person or by phone. When the judge reaches you telephonically, you should be able to hear all parties involved in the hearing—the IJ, your client, the interpreter, and the government attorney. Please communicate to the judge if you cannot hear any of the necessary parties or believe the technology is not functioning properly for any reason.

b. Filing Deadlines

For detained cases, it is up to the court to set filing deadlines, which means it is important to contact the court to determine if a filing deadline has been set in your case. Frequently, IJs on detained dockets do not set an official deadline. In these cases, please note that common practice is to submit filings one-week in advance of the bond hearing date. If you receive supporting documents closer to the date of the bond hearing, you can still submit them to the court so long as they are received by the time the hearing is conducted.

II. Remote Bond: Step-by-Step

1. **Contact your client!** At a minimum, review the following with the client:
 - Introduce yourself and explain to the client that you are only representing them for their bond case—you are not going to be able to help them with their asylum case.
 - Obtain information about their sponsor: What is their contact information? Are they a U.S. citizen or permanent resident? How are they related to the client or how do they know each other?
 - Be sure to get clear consent from your client to contact their sponsor directly and explain that you will be doing so to get supporting documents from them.
 - Confirm presence or lack of other relatives in the United States
 - Ask about criminal history in the United States or in their home country
 - **Be sure to end your call with a plan for your next call.**

2. **File your EOIR-28** (either online or by mail. A sample can be found [on our website.](#))
3. **Call the court clerk and attempt to determine whether your client already has a custody redetermination hearing scheduled.** Note that this information cannot be found on the EOIR 1-800 number or website—it is only available from the court. Find a list of immigration court contact information [here](#). Some courts (particularly the El Paso Court) are extraordinarily busy and difficult to get through. The best times to call are: 7:30-8:30am or 4:00-4:30. *If you are unable to get through, keep trying, but also keep moving along with the preparation of your case. Don't let this step hold you up!*
4. **Contact the sponsor.** Walk the sponsor through what needs to be included in the sponsor letter (there is a [sample on our website](#)). You also need to get proof of the sponsor's status (copy of US birth certificate, US passport, Naturalization certificate, or green card). You also likely need financial information from the sponsor (copy of tax returns or w-2 or pay stubs).
5. **Prepare your filing.** Your filing should include:
 - Motion for custody redetermination (aka "bond hearing), accompanied by:
 - i. Certificate of service
 - ii. Proposed order
 - Brief or memorandum in support of release on bond, including:
 - i. Discussion of primary elements of bond:
 - ✓ Not a danger to the community
 - ✓ Not a flight risk
 - ii. Index of exhibits
 - iii. Exhibits, tabbed
 - Certificate of Translation
 - i. Remember that all foreign-language documents must be accompanied by an English translation and a [certificate of translation](#).
 - [Motion to Appear Telephonically](#), (under COVID protocols this may not be necessary – you may want to call the court to confirm) including:
 - i. Telephone number where attorney can be reached
 - ii. Dates and times that attorney is available/unavailable
 - iii. Proposed Order
 - iv. Certificate of Service
6. **Send your filing to your mentor for review.**

III. How to Submit the Filing

- a. Filing must comply with the [Immigration Court Practice Manual](#). **Filing should be done via [ECAS web portal](#). Starting February 11, 2022, this will be the only way to file with the courts.**

- b. Mail a copy to the client
 - i. Address to: **Detainee Name**
Alien "A" Number
Address of Detention Center (addresses found [here](#))
- c. 1-2 days after you believe the Court should have received your submission, call the court clerk to determine if a Custody Redetermination hearing has been scheduled (they can be scheduled very quickly, even before you get written notice) and if the Motion for Telephonic Appearance has been ruled on (if applicable).
- d. Don't forget to keep your client updated on your progress! Detention is horrible and disorienting—they will want to know what is happening in their case.
- e. Call in to Office Hours for information on the logistics of the hearing itself. Office hour information is in your Orientation Manual.