

## **INITIAL HEARING - PRO SE**

### **INTRODUCTION**

To the respondent through the interpreter, what language do you speak and understand best? [if not English] These proceedings will be interpreted today in the [name] language.

This is an initial [removal] [deportation] [exclusion] hearing before Immigration Judge (Name of Judge) in (City, State) on [date], in the matter of [name], case number A [number].

### **APPEARANCES**

The respondent is appearing pro se. Counsel for the government, please state your appearance for the record.

The interpreter today is [name]. Can you hear the interpreter clearly through the headphones? Do you understand the interpreter? If at any time, you have difficulty understanding the interpreter, please let me know immediately.

[if EOIR employee] [name] is the official interpreter for the Immigration Court who will be providing simultaneous interpretation into the [name] language, and need not be sworn in.

[if not EOIR employee] To the interpreter, do you swear or affirm that you are competent to translate from English to [language] and from [language] to English, and that you will do so accurately and completely?

To the Respondent, the Government asserts that you are in the US in violation of law. The purpose of the hearing is to determine whether you are an alien and, if so, if you are in the US in violation of law. The Court must determine whether there any provision of law that would permit you to remain in the US permanently and, if that if not possible, whether you will be leaving the US under an order of removal or an order of voluntary departure. These questions will be answered after hearing all of the facts of the case.

### **OATH**

To the respondent, Sir/Madam, would you be willing to swear an oath to tell the truth?

Yes - please stand and raise your right hand. Do you swear that the testimony you will provide in these proceedings will be the truth, the whole truth, and nothing but the truth?

No - please stand and raise your right hand. Do you affirm that the testimony you will provide in these proceedings will be the truth, the whole truth, and nothing but the truth?

### **BIOGRAPHICS**

Please state your full and true name for the record.

Where do you currently live?

Same - You are being provided with a blue change of address form. If you do move at any time during these proceedings, you must complete a change of address form and file it with the court within five days of moving. Do you understand?

Different - Please complete two blue change of address forms and complete them at this time. Please provide one to the court clerk and the other to the government attorney. Please take an additional blue change of address form with you. If you move again at any time during these proceedings, you must complete a change of address form and file it with the court within five days of moving. Do you understand?

#### SUMMARY

The purpose of these proceedings is to determine whether or not you should be allowed to remain in the United States. Do you understand?

You have the right to be represented during these hearings by an attorney or qualified representative at your own expense. The government cannot provide you with an attorney or qualified representative. The court clerk is providing you with a legal aid list of individuals and organizations that may be able to represent you at little or no cost. Do you understand?

Do you want time more time to get a lawyer or representative to help you in these proceedings?

#### CONTINUE

Yes - Because you have stated that you want time to locate an attorney, I will continue your case to [date] at [time]. I encourage you to use the legal aid list. If the first organization cannot help you, please contact the second organization until you find one that can help you. Do you understand? If you cannot find or afford an attorney or organization to represent you, be prepared to speak for yourself at the next hearing. Do you understand?

I want to warn you that you may encounter unscrupulous individuals, in fact, some may be outside in the halls of this building, that present themselves as notarios that can help you in these proceedings. These individuals are not attorneys, and they may not represent you in this court. If a person says that he or she can represent you and you are not certain that they are an attorney, ask to see proof that they can represent you in this court. If someone agrees to represent you in these proceedings, be sure to get that person's business card. If you pay that person any money to assist you in these proceedings, be sure to get a receipt for any money you have paid. Finally, you should get a written description of what that person will do for you during the course of their representation. Do you understand everything I have said to you?

#### WAIVER OF RIGHT TO COUNSEL

No - Does that mean that you want to do your immigration case yourself right now?

Yes - Because you have stated that you do not wish to continue this hearing to try to find an attorney, do you understand that you will be required to represent yourself in these proceedings?

Do you understand that you will be required to plead to the allegations and charge of law contained in the Notice to Appear?

Do you understand that the decisions you make here today may affect the outcome of your case?

Do you acknowledge that you are making this decision of your own free will, and that you have not been coerced in any way to forego your right to representation?

Do you still want to proceed today, without the assistance of an attorney or qualified representative, and represent yourself in this hearing?

I find that the respondent's waiver of his right to an attorney has been given knowingly and voluntarily, and the court will proceed with this hearing.

[PROCEED TO CONTINUED HEARING SCRIPT - PRO SE]

#### NOTICE AND RIGHTS

The clerk is providing you with the only written notice you will receive of the next hearing. The clerk is also providing you with an advisal of your rights.

You must return here on [date] at [time]. Please arrive early. If you do not appear at the next hearing as ordered you will be ordered deported and removed from the United States, unless you can show that your absence was caused by exceptional circumstances beyond your control. Exceptional circumstances are defined as a serious illness or death of an immediate family member.

If you are ordered removed, any applications for relief you may have pending before this court will be deemed abandoned and will be denied. Additionally, you will become ineligible for certain forms of relief, such as voluntary departure, cancellation of removal, adjustment of status, or change of status for a period of ten years.

Do you understand everything I have said to you today? Do you have any questions about anything I have told you today?

Anything from the government?

There being nothing further, this matter is continued to the date and time indicated on the notice provided to the parties. Thank you.

## **INITIAL HEARING – WITH ATTORNEY/ REPRESENTATIVE**

### **INTRODUCTION**

To the respondent through the interpreter, what language do you speak and understand best? [if not English] These proceedings will be interpreted today in the [name] language.

### **IF CONTINUED**

To the respondent through the interpreter, you indicated at a prior hearing that [name] is the language that you speak and understand best? Do you want to proceed with this hearing in [name]? These proceedings will be interpreted today in the [name] language.

This is a [continued/initial] [removal] [deportation] [exclusion] hearing before [Immigration Judge] on [date], in the matter of [name], case number A [number].

This case has been reassigned to me, and I want to assure the parties and state for the record, that I have familiarized myself with the record in this case as required by regulation.

### **APPEARANCES**

The respondent is present in court and represented. Counsel, please state your appearance for the record.

### **LANGUAGE**

The interpreter today is [name].

Can you hear the interpreter clearly through the headphones? Do you understand the interpreter? If at any time, you have difficulty understanding the interpreter, please let me know immediately.

[If EOIR employee] [name] is an official interpreter for the Immigration Court who will be providing simultaneous interpretation into the [name] language, and need not be sworn in.

[If not EOIR employee] To the interpreter, do you swear or affirm that you are competent to translate from English to [language] and from [language] to English, and that you will do so accurately and completely?

### **OATH**

To the respondent, please stand and raise your right hand. Do you swear that the testimony you will provide in these proceedings will be the truth, the whole truth, and nothing but the truth, so help you God?

If won't swear - please stand and raise your right hand. Do you affirm that the testimony you will provide in these proceedings will be the truth, the whole truth, and nothing but the truth?

## PURPOSE

Please state your full and true name for the record.

The purpose of these proceedings is to determine whether or not you should be allowed to remain in the United States.

The attorney seated next to you has entered an appearance in your case. Do you want him/her to represent you in these proceedings?

## ADDRESS

Where do you currently live?

Same - You are being provided with a blue change of address form. If you do move at any time during these proceedings, you must complete a change of address form and file it with the court within five days of moving. Do you understand?

Different - Please complete two blue change of address forms and complete them at this time. Please provide one to the court clerk and the other to the government attorney. Please take an additional blue change of address form with you. If you move again at any time during these proceedings, you must complete a change of address form and file it with the court within five days of moving. Do you understand?

## PRE-CONCLUSION VOLUNTARY DEPARTURE

Counsel, will your client be requesting pre-conclusion voluntary departure?

[If no, continue to pleadings]

[If yes, determine eligibility]

Sir/Madam, you have been granted the privilege of voluntarily departing from the United States. If you fail to voluntarily depart the United States within the time period specified, a removal order will automatically be entered against you. You will also be subject to a civil monetary penalty, which cannot be set at less than \$1,000 or more than \$5,000. In accordance with the regulation, the court has set the presumptive amount at \$3,000. You will also be ineligible to receive cancellation of removal, adjustment of status, registry, voluntary departure, or a change of nonimmigrant status for 10 years.

In addition, if you file a motion to reopen or reconsider during the voluntary departure period, your grant of voluntary departure is automatically terminated and the alternate order of removal will take effect immediately, though the penalties for failure to depart will not apply.

## PLEADINGS

Counsel, I have a charging document in the name of your client dated [date].

Does he/she waive a formal reading of his/her rights in these proceedings?

Does your client concede that he/she is the person named therein and that he/she has been properly served?

Does your client waive a full and complete reading of the charges against him/her?

I will mark and admit the NTA as Exhibit 1 in the record.

Are you ready to plead on behalf of your client?

If not served, have DHS attorney serve it.

Do you now acknowledge service of the NTA? Do you need additional time to prepare before pleading to the NTA?

I will mark and admit the NTA as Exhibit 1 in the record.

How does your client plead to the [number] factual allegations and the [number] charge(s)?

#### FINDING

On the basis of these admissions and concession of the charge(s), I find that the Respondent is removable [deportable/excludable] as charged.

#### DESIGNATION

Does your client wish to designate a country of removal should removal become necessary?

No - Does the government have a recommendation?

The court designates [name] as the country of removal should removal become necessary.

#### APPLICATIONS

Counsel, what forms of relief from removal, if any, does your client seek?

#### ASYLUM

Counsel, I have an asylum application dated [date], which was referred to the court by DHS. Will the Respondent be relying on that application?

Sir/Madam, I am providing you with a frivolous asylum warning in writing at this time. This warning tells you that, if you knowingly file a frivolous asylum application, you will be forever barred from receiving any benefits under the Act. A frivolous asylum application is one which contains statements or responses to questions that are deliberately fabricated. Not being granted asylum does not mean that your application is frivolous. Do you understand?

Knowing that, if I find you knowingly filed a frivolous asylum application you will be barred from any relief forever, do you want to file for asylum?

#### OTHER APPLICATIONS

Counsel, are you prepared to file the applications for relief at this time?

Yes - Please serve a copy on government counsel.

#### REVIEW APPLICATION TO DETERMINE IF IT IS COMPLETE. IF NOT COMPLETE, RETURN AND RESET FOR FILING

No - Any additional applications for relief must be filed in court on [date] at [time]. At that hearing, I will review the supplemental documents and, assuming they are complete and in compliance with the local rules, will schedule a hearing on the merits. Please have an additional copy of any document to serve on government counsel. This deadline must be met and if it is not, the remedy will be deemed abandoned and the respondent shall lose the right to apply for such relief.

Counsel, how much time do you need to supplement the application?

Yes - I will continue this matter so that you may submit any supplemental filings in court on [date] at [time]. At that hearing, I will review the supplemental documents and, assuming they are complete and in compliance with the local rules, will schedule a hearing on the merits. Please have an additional copy of any document to serve on government counsel.

Additionally, if you intend to call additional witnesses, other than the Respondent, I expect you to file a witness list at the next hearing. The witness list should indicate whether the witness requires the aid of interpreter and, if so, the language that will be used.

No - Counsel, are you saying that this application is complete and that you will not be filing any additional documents before the merits hearing? Has your client submitted the necessary fingerprints and other information for the biometric checks?

Does government counsel want to see the originals of any documents submitted by the respondent?

Yes - Does the respondent have the originals in court?

No - then reset code 21.

Yes - Does government counsel want to retain these originals for forensic examination or have the respondent bring the documents on the date of the merits hearing?

If retain - Does respondent's counsel have any objection to DHS retaining the originals?

Let the record reflect that the originals were retained by TA [name]. Warn TA that if the originals are not in the government file at the merits hearing, the exhibits may be admitted.

## BIOMETRICS

Government counsel, are biometrics necessary? Please provide respondent with the written instructions regarding the biometric requirements.

Let the record reflect that government counsel is providing the respondent with the biometrics instruction form. To the respondent, sir/madam, it is essential that you comply with the instructions provided on this form, whether you do this with the assistance of your attorney or not. At least 60 days before the next hearing, you must have complied with all the requirements listed on this form. If you fail to do so, I may deny your application. Do you understand?

## OTHER ISSUES

Are there any issues related to voluntary departure?

Counsel, how much time do you estimate will be required for the merits hearing?

I will reset this matter for a hearing to file the applications for relief on [date] at [time]. This is the court's first available day.

Is this date and time agreeable to both parties?

## PREPARATION FOR HEARING

To the respondent. Sir/Madam, your matter has been set for hearing on the merits of your applications. Although you are represented by counsel, I want to advise you that, at the next hearing, you must bring any witnesses that you intend to present in support of your applications. Do you understand?

You must also bring the original of any and all documents that you intend to present to the court for consideration. If any document you bring to court is in any language other than English, then you must have the document translated into English. You must also have the person who translated the document complete a certificate stating that provides his or her name, the fact that he or she is competent to translate from the language of the document into English, and that the translation is true, complete, and accurate. Finally, you must have two copies of any and all documents you intend to introduce, one for the court and one for the government. Do you understand?

## RIGHTS

During these proceedings, you have the right to examine and object to any evidence presented by the government. You also have the right to examine and question any government witnesses. The government attorney will have an opportunity to question you at the hearing, and challenge any documents or witnesses you may present. Additionally, the court may have questions of you or your witnesses. Do you understand?

## NOTICE AND RIGHTS

The clerk is providing you with the only written notice you will receive of the next hearing. The clerk is also providing you with an advisal of your rights.

You must return here on [date] at [time]. Please arrive early. If you do not appear at the next hearing as ordered you will be ordered deported and removed from the United States, unless you can show that your absence was caused by exceptional circumstances beyond your control. Exceptional circumstances are defined as a serious illness or death of an immediate family member.

If you are ordered removed, any applications for relief you may have pending before this court will be deemed abandoned and will be denied. Additionally, you will become ineligible for certain forms of relief, such as voluntary departure, cancellation [or suspension] of removal, adjustment of status, or change of status for a period of ten years.

Do you understand everything I have said to you today? Do you have any questions about anything I have told you today?

Anything from either party?

There being nothing further, this matter is continued to the date and time indicated on the notice provided to the parties. Thank you.

## **CONTINUED HEARING - PRO SE**

### **INTRODUCTION**

To the respondent, what language do you speak and understand best?

That is the language you designated at the last hearing, and these proceedings today will be interpreted in the [name] language.

This is a continued [removal] [deportation] [exclusion] hearing before [Immigration Judge] in [city] on [date], in the matter of [name], case number A [number].

### **APPEARANCES**

The respondent is appearing pro se. Counsel for the government, please state your appearance for the record.

### **LANGUAGE**

The interpreter today is [name]. Can you hear the interpreter clearly through the headphones? Do you understand the interpreter? If at any time, you have difficulty understanding the interpreter, please let me know immediately.

[if EOIR employee] [name] is an official interpreter for the Los Angeles Immigration Court who will be providing simultaneous interpretation into the [name] language, and need not be sworn in.

[if not EOIR employee] To the interpreter, do you swear or affirm that you are competent to translate from English to [language] and from [language] to English, and that you will do so accurately and completely?

### **OATH**

To the respondent, Sir/Madam, would you be willing to swear an oath to tell the truth?

Yes - please stand and raise your right hand. Do you swear that the testimony you will provide in these proceedings will be the truth, the whole truth, and nothing but the truth?

No - please stand and raise your right hand. Do you affirm that the testimony you will provide in these proceedings will be the truth, the whole truth, and nothing but the truth?

### **BIOGRAPHICS**

Please state your full name for the record.

Where do you currently live?

Same - You are being provided with a blue change of address form. If you do move at any time during these proceedings, you must complete a change of address form and file it with the court within five days of moving. Do you understand?

Different - Please complete two blue change of address forms and complete them at this time. Please provide one to the court clerk and the other to the government attorney. Please take an additional blue change of address form with you. If you move again at any time during these proceedings, you must complete a change of address form and file it with the court within five days of moving. Do you understand?

#### SUMMARY

Mr/Mrs [name], at your last hearing, I continued this matter to today's date to provide you an opportunity to find an attorney or qualified representative to represent you in these proceedings. Do you have an attorney or representative with you today?

No - What attempts have you made to try to find an attorney to represent you in these proceedings? [If reasonable attempts made, find good cause and offer an additional period of time]

[If no further continuances will be granted] Sir/Madam, at the last hearing, I advised you that you should be prepared to represent yourself at today's hearing. You have come here today without an attorney, and I do not find that you have made reasonable attempts to secure representation. Therefore, we will proceed and you will represent yourself during these proceedings. Do you understand?

#### PURPOSE

The purpose of this hearing is to determine whether or not you should be allowed to remain in the United States. The Department of Homeland Security states that you do not have a legal reason to remain in the United States. Do you understand?

During these proceedings, you have the right to examine and object to any evidence presented by the government. You also have the right to examine and question any government witnesses. The government attorney will have an opportunity to question you at the hearing, and challenge any documents or witnesses you may present. Additionally, the court may have questions of you or your witnesses. Do you understand?

#### PRE-CONCLUSION VOLUNTARY DEPARTURE

Sir/Madam, instead of the possibility of being removed from the United States, you may be eligible to depart voluntarily. This would allow you to leave the United States without an order of removal being entered against you. However, you would not be able to apply for any relief from removal and would have to leave the United States, among other conditions. Is that something you would be interested in pursuing?

[If yes, determine eligibility]

[If no, continue to pleadings]

Sir/Madam, you have been granted the privilege of voluntarily departing from the United States. If you fail to voluntarily depart the United States within the time period specified, a removal order will automatically be entered against you. You will also be subject to a civil monetary penalty, which cannot be set at less than \$1,000 or more than \$5,000. In accordance with the regulation, the court has set the presumptive amount at \$3,000. You will also be ineligible to receive cancellation of removal, adjustment of status, registry, voluntary departure, or a change of nonimmigrant status for 10 years.

In addition, if you file a motion to reopen or reconsider during the voluntary departure period, your grant of voluntary departure is automatically terminated and the alternate order of removal will take effect immediately, though the penalties for failure to depart will not apply.

#### PLEADINGS

The government filed with this court a document called a Notice to Appear, which is dated [date]. On page five of this document, the government states that it served you with a copy of this document on [date] by [means of service]. Did you receive a copy of this document?

No - I will show you the court's copy. Do you remember receiving this Notice to Appear?

[If not served, have DHS attorney serve it]

I will mark and admit the NTA as Exhibit 1 in the record.

At this time, we will discuss the government's allegations and charges in the Notice to Appear.

The government charges that you are subject to removal because you are an alien [CHARGE].

In support of this charge, the government makes the following allegations:

First, are you a citizen or national of the United States?

Second, you are a citizen and national of [country]?

Third [etc]

Fourth [etc].

The government charges you with removal from the United States under section [number] of the Immigration and Nationality Act, in that [describe]. Do you agree that you may be removed because of the reason I just stated?

On the basis of your admissions and concession of the charge of removability, the court finds that you are removable as charged in the NTA.

If I find you must be removed, you have the right to designate a country where you would be sent in the event you cannot remain in the United States. You should not choose a country where you are afraid to be sent. Do you want to choose a country where you would be sent?

No - Does the government have a recommendation?

The court designates [name] as the country of removal should removal become necessary.

#### RELIEF

Mr/Mrs [name], I will now ask you some questions to determine what forms of relief from removal, if any, may be available to you.

Sir/Madam, where were your grandparents born? Where were your parents born? Are either of your grandparents or parents lawful permanent residents or citizens of the United States?

Have you ever been a lawful permanent resident of the United States?

Has anyone filed a visa petition for you?

Government counsel, do you have any information in the government file that would show statutory ineligibility for relief?

#### ASYLUM

Or [if file contains I-589] - Sir/Madam, I have an asylum application, which was referred to the court by DHS. Do you want to renew this application for asylum in court?

Yes - This application is dated [date].

Sir/Madam, I am providing you with a frivolous asylum warning in writing at this time. This warning tells you that, if you knowingly file a frivolous asylum application, you will be forever barred from receiving any benefits under the Act. A frivolous asylum application is one which contains statements or responses to questions that are deliberately fabricated. Not being granted asylum does not mean that your application is frivolous. Do you understand?

If I find you knowingly filed a frivolous asylum application you will be barred forever from any relief. Knowing what I've just told you, do you want to file for asylum?

Additionally, the court will deem this to be an application for withholding of removal and protection under the Convention Against Torture.

Sir/Madam, do you intend to provide additional information in support of your asylum application?

Yes - I will continue this matter so that you may submit any supplemental filings in court on [date] at [time]. At that hearing, I will review the supplemental documents and, assuming they are complete and in compliance with the local rules, will schedule a hearing on the merits. Please have an additional copy

of any document to serve on government counsel. If you do not bring any additional documents for submission to the court at that hearing, then the court will rely solely on the documents currently in the court's file to decide your case. I will not permit you to bring additional documents to be considered on the date of your merits hearing. Do you understand everything I have said?

No - Government counsel, have the necessary biometrics been taken?

Yes - The court will reset your case to [date] at [time] for a hearing on the merits of your applications.

No - Sir/Madam, because you are seeking relief from removal, the government must complete certain background checks before the court can complete your case. The government attorney is providing you with written instructions that tell you how to complete the necessary background checks. You must be sure to do what the instructions tell you before the next hearing. **YOU WILL BE REQUIRED TO TAKE YOUR FINGERPRINTS. YOUR FAILURE TO COMPLY WITH THE REQUIREMENTS WILL RESULT IN YOUR APPLICATION BEING DEEMED ABANDONED AND DENIED. DO YOU UNDERSTAND?**

The court will reset your case to [date] at [time] for a hearing on the merits of your applications.

#### PREPARATION FOR HEARING

Sir/Madam, your matter has been set for hearing on the merits of your applications. You are reminded that you may have an attorney or qualified representative present for you at that hearing. If you do obtain a representative before that date, you must tell him or her that your case has been set for a merits hearing, and that he or she will be expected to go forward on that date with the merits of your case. I will not be inclined to continue your case on that date.

At the next hearing, you must bring any witnesses that you intend to present in support of your applications. If your witness is not fluent in English, please advise the court, in writing, at least 30 days, that is [date], before the next hearing of the language spoken by your witness so that the court can ensure that an interpreter will be present at the hearing to assist your witness, that is, unless your witness speaks the same language, [language], that you speak. Do you understand?

You must also bring the original of any documents you intend to present to the court for consideration. If any document you bring to court is in any language other than English, then you must have the document translated into English. You must also have the person who translated the document complete a certificate stating that provides his or her name, the fact that he or she is competent to translate from the language of the document into English, and that the translation is true, complete, and accurate. Finally, you must have two copies of any and all documents you intend to introduce, one for the court and one for the government. Do you understand?

At the hearing, the government attorney will have an opportunity to question you at the hearing, and challenge any documents or witnesses you may present. Additionally, the government may present witnesses or documents. If that happens, you will have the opportunity to question the witness or challenge the documents presented by the government. Do you understand?

Additionally, the court may have questions of you, your witnesses, or your documents. Do you understand?

#### NOTICE AND RIGHTS

The clerk is providing you with the only written notice you will receive of the next hearing. The clerk is also providing you with an advisement of your rights.

You must return here on [date] at [time]. Please arrive early. If you do not appear at the next hearing as ordered you will be ordered deported and removed from the United States, unless you can show that your absence was caused by exceptional circumstances beyond your control. Exceptional circumstances are defined as a serious illness or death of an immediate family member.

If you are ordered removed, any applications for relief you may have pending before this court will be deemed abandoned and will be denied. Additionally, you will become ineligible for certain forms of relief, such as voluntary departure, cancellation [or suspension] of removal, adjustment of status, or change of status for a period of ten years.

Do you understand everything I have said to you today? Do you have any questions about anything I have told you today?

Anything from the government?

There being nothing further, this matter is continued to the date and time indicated on the notice provided to the parties. Thank you.

## **IN ABSENTIA HEARING - INITIAL HEARING**

### **INTRODUCTION**

This is an initial [removal] [deportation] [exclusion] hearing before Immigration Judge (Name of Judge) in (City, State) on [date], in the matter of [name], case number A [number].

### **APPEARANCES**

Counsel for the Government; please state your appearance for the record.

The respondent in this case was ordered to appear today at [time] in this court. It is now [time], but the respondent has failed to appear. Only the court interpreter and the DHS attorney [name] are present in court at this time.

Has DHS received any communication from the respondent that would explain his/her failure to appear today?

I will ask the clerk/interpreter to call out the respondent's name in the hallway adjacent to this court.

The clerk of the court/interpreter has now returned. [name], have you called out the name of the respondent in the adjacent hallway? [name], was there any response when you called out the respondent's name?

How does DHS wish to proceed in this matter?

The motion to proceed in absentia is granted.

### **EVIDENCE**

The court has been served with a Notice to Appear issued to [name], A number [number]. The NTA is dated [date].

Personal service - According to the NTA, DHS personally served the NTA upon the respondent on [date].

Mail service - DHS served the NTA by mail on [date]. Does the government have proof of service?

The court will mark and admit the NTA into the record as Exhibit 1.

The return receipt, PS-3811, is marked and admitted into the record as Exhibit 2.

If I-589 - Additionally, the court has an asylum application, form I-589, which it will mark and admit into the record as Exhibit 3.

If no I-589 - Does the government have any evidence to offer on the issue of removability?

If I-213 offered - The government has offered a Form I-213, record of deportable alien, which bears the respondent's name and A number. The I-213 also bears the respondent's place of birth, and date, place,

and manner of last entry to the United States. The court finds identity of the party named in the I-213 and the NTA. The court will mark and admit the I-213 into the record as Exhibit [number]

Based on the exhibits in the record, the court finds that the government has established service of the NTA by clear, unequivocal, and convincing evidence. The Services has established that written notice of the time and place of proceedings and written notice of the consequences of failure to appear were provided to the alien or the alien's counsel of record. Additionally, the court finds that the government has established the [number] factual allegations and [number] charges of removability set forth in the NTA. The respondent is:

inadmissible under section 212 of the Act as charged in the NTA.

OR - the alien is deportable under section 237 of the Act as charged in the NTA.

See INA § 240(b)(5).

The court orders the respondent removed to [country].

Anything further from the government?

There being nothing further, these proceedings are concluded.

## **IN ABSENTIA HEARING - CONTINUED HEARING**

### **INTRODUCTION**

This is a continued [removal] [deportation] [exclusion] hearing before [Immigration Judge] in [city] on [date], in the matter of [name], case number A [number].

### **APPEARANCES**

Counsel for the government, please state your appearance for the record.

The respondent in this case was ordered to appear today at [time] in this court. It is now [time], but the respondent has failed to appear. Only the court interpreter and the government attorney are present in the courtroom at this time.

Has DHS received any communication from the respondent that would explain his/her failure to appear today?

I will ask the clerk/interpreter to call out the respondent's name in the hallway adjacent to this court.

The clerk of the court/interpreter has now returned. [name], have you called out the name of the respondent in the adjacent hallway? [name], was there any response when you called out the respondent's name?

How does DHS wish to proceed in this matter?

The motion to proceed in absentia is granted. The clerk of the court has called out the name of the respondent in the adjacent hallway. Clerk [name], was there any response when you called out the respondent's name?

Has DHS received any communication from the respondent that would explain his/her failure to appear today?

Does DHS wish to make a motion in this matter?

The motion to proceed in absentia is granted.

### **EVIDENCE**

The court has a Notice to Appear issued to [name], A number [number]. The NTA is dated [date], and was previously marked and admitted into the record as Exhibit 1.

The court will mark and admit the notice of hearing, which was personally served on the respondent on [date] into the record as Exhibit 2.

If I-589 - Additionally, the court has an asylum application, form I-589, which it will mark and admit into the record as Exhibit 3.

If no I-589 - Does the government have any evidence to offer on the issue of removability?

If I-213 offered - The government has offered a Form I-213, record of deportable alien, which bears the respondent's name and A number. The I-213 also bears the respondent's place of birth, and date, place, and manner of last entry to the United States. The court finds identity of the party named in the I-213 and the NTA. The court will mark and admit the I-213 into the record as Exhibit [number]. Based on the exhibits in the record, the court finds that the government has established service of the NTA by clear, unequivocal, and convincing evidence. Additionally, the court finds that the government has established the [number] factual allegations and [number] charges of removability set forth in the NTA. The respondent is:

inadmissible under section 212 of the Act as charged in the NTA.

OR - the alien is deportable under section 237 of the Act as charged in the NTA.

See INA § 240(b)(5).

The court orders the respondent removed to [country].

Anything further from the government?

There being nothing further, these proceedings are concluded.

## INDIVIDUAL HEARING

To the respondent, you previously stated that [name] is the language you speak and understand best. Is this still correct? These proceedings will be interpreted today in the [name] language.

This is a continued [removal] [deportation] [exclusion] hearing before [Immigration Judge] in [city] on [date], in the matter of [name], case number A [number].

## APPEARANCES

Counsel, please state your appearances for the record.

The interpreter today is [name], who is the official interpreter for the Los Angeles Immigration Court, who is providing simultaneous interpretation to the respondent today in court and need not be sworn in.

Can you hear the interpreter clearly through the headphones? Do you understand the interpreter? If at any time, you have difficulty understanding the interpreter, please let me know immediately.

To the respondent, you previously took an oath that the testimony you will provide in these proceedings will be the truth, the whole truth, and nothing but the truth, you are still under oath. Do you understand?

Please state your full name for the record.

The attorney seated next to you has entered an appearance in your case. Do you want him to represent you in these proceedings?

Where are you currently living?

Same - You are being provided with a blue change of address form. If you do move at any time during these proceedings, you must complete a change of address form and file it with the court within five days of moving. Do you understand?

Different - Please complete two blue change of address forms and complete them at this time. Counsel is this address still within the jurisdiction of the \_\_\_\_\_ court? Please provide one to the court clerk and the other to the government attorney. Please take an additional blue change of address form with you. If you move again at any time during these proceedings, you must complete a change of address form and file it with the court within five days of moving. Do you understand?

## SUMMARY

We are here today to consider the merits of the Respondent's applications for relief from removal. Specifically, before the court are Respondent's applications for [asylum/withholding of removal/ protection under the Convention Against Torture/ cancellation of removal/ adjustment of status/ voluntary departure].

Counsel, I want to ensure that you have advised the respondent of the difference between pre-conclusion and post-conclusion voluntary departure. I also want to ensure that the respondent is not seeking pre-conclusion voluntary departure, is this correct?

Counsel for the government, are the necessary biometric checks completed and current? Yes - Then we may proceed.

#### EXHIBITS

At this point, we have the following exhibits marked and admitted into the record:

Exhibit 1 - NTA

Exhibit 2 -

We also have:

An asylum application, Form I-589, which was referred to the court by the Department of Homeland Security. I will now provide to the Respondent the asylum application contained in the court's record of proceedings for his/her review.

OR An application for cancellation of removal, Form EOIR-40, which was filed by the Respondent. I will now provide the Respondent with the cancellation application contained in the court's record of proceedings for his/her review.

Sir/Madam, have you seen this document prior to today? What is it?

At the time this document was prepared, were you able to read and write in English?

No - Did your attorney or the person that assisted you in preparing the application explain the entire contents of the application to you in your native language?

No - Counsel, we will go off the record to provide you an opportunity to explain the contents of the application with your client. Trail the matter.

Yes - Do you know the contents of this application?

Are the statements made in the application true and correct?

Did you provide the supporting documents filed with the application?

Do you believe that the documents provided with your application are true and correct?

Please turn to the last page of the application. Is that your signature that appears on this application?

Please stand and raise your right hand. Do you swear or affirm that the contents of this application, including the documents submitted in support of the application, are true to the best of your knowledge? Then please sign with your full, true name.

Once returned, I am now signing the application as well to establish that the respondent acknowledged knowing the contents of the application, and that they are true.

Government counsel, any objections to admission of this application?

I will mark and admit the application as Exhibit [ ].

Attachments - objections. Mark and admit.

[Counsel for Respondent] - Do you have any other documents you would like to offer into the record at this time? Objections?

Does the government have any other documents to offer into the record at this time? Objections?

WITNESSES

[Counsel for Respondent] - I would like to hear from the respondent first?

Are there any other witnesses present in the court room? Motion to sequester?

TESTIMONY

[Counsel for the respondent] - Your witness.

CONCLUSION OF TESTIMONY

Ensure Respondent qualified for voluntary departure.

Does either party have any further evidence it wishes to introduce?

Does the respondent rest?

Does the government have any rebuttal evidence or witnesses it wishes to introduce?

The evidentiary portion of this hearing is now closed.

Does either party wish to make a closing argument?

Rebuttal by respondent?

We will go to a separate tape for the oral decision.

ORAL DECISION

IF A DENIAL

To the Respondent, you have heard my oral decision. I have denied your applications for [asylum, withholding of removal, and protection under the Convention Against Torture, cancellation of removal, adjustment of status]. Do you understand my decision? If no, Counsel will you waive further explanation

of the decision. To the Respondent, your attorney will provide detailed information to you about the court's decision following the hearing.

Counsel for the Respondent, do you wish to waive or reserve appeal? Counsel for the government?

Counsel for the Respondent, at this time the court is providing you with an appeal packet.

To the Respondent, your attorney has taken an appeal packet, which consists of a notice of appeal, request for fee waiver, and a change of address notification form to the Board of Immigration Appeals. You are also being provided an EOIR 41, a form providing you with a notice of your appeal rights, which is written in both English and Spanish.

Let me explain your appeal rights at this time as detailed in the form EOIR-41. First, you have the right to appeal my decision to the Board of Immigration Appeals if you feel my decision is incorrect. Do you understand?

You must state the basis for your appeal on the notice of appeal, which was provided to your attorney, and mailed to the Board of Immigration Appeals. Do you understand?

Second, in order to file an appeal, you must include the \$110 filing fee or use the request for a fee waiver, if you cannot afford to pay the \$110 appeal filing fee. The fee waiver request form is included in the packet of materials provided to your attorney. Do you understand?

Third, you must file your appeal with the Board of Immigration Appeals no later than 30 days from today's date. Thus, your appeal must be received by the Board on or before [DATE], or the Board may reject your appeal. Do not mail your notice of appeal on the 30th day, as it will not reach the Board of Immigration Appeals, which is located in Falls Church, Virginia, in a timely manner. Do you understand?

Finally, if you file a notice of appeal with the Board of Immigration Appeals in a timely manner, the Department of Homeland Security may not remove you while your appeal is pending. Do you understand? Do you have any questions about anything I've said so far?

#### GRANT OF RELIEF

The parties have heard the court's oral decision. The court has found the Respondent to be statutorily eligible for [asylum/withholding of removal/protection under CAT], and has granted the application in an exercise of its discretion.

Does either party wish to reserve appeal?

If DHS appeals - explain appeal rights.

If no DHS appeal - explain grant to Respondent. Your attorney will advise you of the steps you will need to take now. I am providing you with a form that contains instructions that you will need to follow as a result of the grant of relief in this case. In order to become a permanent resident, you must file with the

Government, within one year of the order, the Form 1-485 for apply for adjustment of status to that of lawful permanent resident.

To the Respondent, do you understand everything I have said to you today? Do you have any questions about anything I have told you today?

Anything from either party?

There being nothing further, the order is entered and final. This matter is concluded. I will now provide you with a written memorandum of my oral decision.

Thank you.

#### POST-CONCLUSION VOLUNTARY DEPARTURE GRANT

Sir/Madam, the court has granted you the privilege of voluntary departure. This means that you must leave the United States on or before the date provided to you by this court. You must also post the [specific amount] voluntary departure bond set by the court with the DHS ICE Field Office Director within 5 business days of the court's order granting voluntary departure. Further, you must follow any additional conditions that the court has set. Knowing this, do you still accept the grant of voluntary departure?

[If accepts:]

If you fail to leave the United States by the specified date, then you will be ordered removed and deported from the United States. You will also be subject to a civil monetary penalty, which cannot be set at less than \$1,000 or more than \$5,000. In accordance with the regulation, the court has set the presumptive amount at \$3,000.

Additionally, if you fail to timely depart the United States and are ordered removed, you will become ineligible to receive cancellation of removal, adjustment of status, registry, voluntary departure, or a change of nonimmigrant status for 10 years.

Lastly, if you file a motion to reopen or reconsider, your grant of voluntary departure will be terminated and the alternate order of removal will take effect immediately, although you will not be subject to the penalties for failing to depart. Do you understand the consequences of failing to depart voluntarily as you have promised?

You also have the right to appeal the court's decision to the Board of Immigration Appeals. If you choose to do so, you must provide proof to the Board within 30 days of filing your appeal that you posted your voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if you do not submit timely proof that you posted the bond. Do you understand?

## CONCLUSION

To the Respondent, do you understand everything I have said to you today? Do you have any questions about anything I have told you today?

Anything from either party?

There being nothing further, this matter is concluded. I will now provide you with a written memorandum of my oral decision.

Thank you.

### Advisement to the Immigrant Respondent granted Section 240A(a) Cancellation of Removal or Waiver under former § 212(c)

To the Respondent, the Court has granted your request for relief. However, at this point I need to stress to you the statutory prohibition against any further grants of relief under this section of the Act. Should you become subject to a second removal hearing due to subsequent acts of misconduct, the court will not be in a position to provide you with this relief again. Do you understand? Do you understand everything I have said to you today? Do you have any questions about anything I have told you today?

Anything from either party?

There being nothing further, this matter is concluded. I will now provide you with a written memorandum of my oral decision.

Thank you.

### Advisement to Respondents Granted Adjustment of Status on a Conditional Basis

Section 216 of the Act provides for the granting of adjustment of status to aliens seeking

adjustment on the basis of a marriage contracted with an American citizen or lawful permanent resident spouse, if the marriage was entered into less than two years prior to granting adjustment. The same conditional adjustment applies to the dependent child of the respondent receiving adjustment. When the IJ grants conditional adjustment, the IJ should educate the respondent (and the respondent's spouse, if present) regarding the need to take further action to remove the condition on the respondent's immigrant status. The respondent should be told that, within the 90th day of the second anniversary of the granting of adjustment on a conditional basis, the respondent and the respondent's spouse must file with the local office of the Department of Homeland Security the Form I-751 Application to Remove Condition on immigrant Status. Mention further that, if the respondent and spouse are not together at that time, the respondent must file by himself or herself the I-751 which will be treated as an application to waive the joint petition requirement. Further stress that the respondent must appear for interview on Form I-751 and, if he or she does not appear, or fails to file the form on time, the respondent then becomes subject to a new removal proceeding wherein the Government will seek an order expelling him or her from the US.

### Alien Ordered Deported Who Has Waived Appeal

This advisement is not given often as most non-detainee respondents who are ordered removed and deported will not waive appeal. If such a respondent does waive appeal, the IJ must explain to the respondent that, if he or she willfully fails or refuses to depart when and as required, make timely application in good faith for any needed travel documents, or fails to appear when and as required for deportation, or conspires to or takes any action to hinder his or her departure, the respondent becomes subject to a money penalty of up to \$500.00 each day under such violation. If the respondent is deportable under Section 237(a), he or she may be subject to a fine or imprisonment for up to ten years.

### Alien Granted CAT Relief

Operating Policies and Procedures Memorandum No. 99-5, Implementation of Article 3 of the UN Convention Against Torture, sets forth the specific contents that must be included in a deferral order pursuant to 8 C.F.R. 1208.17(b)(1) and (b)(2). Specifically, when an Immigration Judge grants deferral of removal under the Convention Against Torture, he or she must inform the alien that: 1) Deferral of removal does not confer any lawful or permanent immigration status on the alien; 2) If the alien is detained, he or she may not necessarily be released by the DHS; 3) Deferral of removal is effective only until terminated; 4) Deferral of removal may be terminated based upon the alien's request or a motion from the DHS; and 5) Deferral of removal only precludes the DHS from removing the alien to a particular country or countries in which it has been determined that the alien is likely to be tortured; the alien may be removed at any time to another country. OPPM 99-5, Section II, citing 8 C.F.R. §1208.17(b) The OPPM also addresses termination of deferral of removal. Section VII. A. states that a motion for termination shall be granted if it is accompanied by evidence that is relevant to the possibility that the alien would be tortured in the country to which removal has been deferred that was not presented at the previous hearing. OPPM 99-5, citing 8 C.F.R. § 1208.17(d). Finally, the OPPM states that at a contested hearing, the burden is on the alien to establish that it is more likely than not that he or she will be tortured in the country to which removal has been deferred. OPPM 99-5, citing 8 C.F.R. § 1208.17(d)(3).