

Main Class Membership established by:

Criteria for inclusion in Main Class:

- DHS screening and identification
- IJ finding of *bona fide* doubt (BFD)

Notice of Main Class Membership received from DHS

Date Notice of Class Membership received _____

DHS screening documents and information filed with Notice

Basis for Main Class Membership stated on the record

Judicial Competency Inquiry (JCI) conducted: (Timeline: 21 days from receiving DHS Notice*)

JCI Advisal given based upon the form “Process for Conducting a Judicial Inquiry”

Respondent questioned regarding:

- Nature and object of the proceeding
- Understanding and ability to exercise rights
- Ability to respond to allegations and charges
- Ability to present information and respond to questions relevant to relief
- Cognitive, emotional, and behavioral functioning

JCI finding:

- Competent (Proceedings resume)
 - Use no “reasonable cause to believe is incompetent” standard
- Incompetent (IJ orders QR)
 - Use incompetent by a “preponderance of the evidence” standard
 - “Order for Provision of a Qualified Representative” submitted within 24 hours
- Insufficient evidence (IJ promptly orders Forensic Competency Evaluation)

Date of JCI finding: _____

JCI finding stated on the record

Forensic Competency Evaluation (FCE) ordered: (Timeline: promptly after JCI*)

Date FCE ordered: _____

FCE referral submitted with supporting documentation within 3 business days

Date FCE report received: _____

- FCE served on parties
- Report “accepted” by IJ

Competency Review (CR) conducted: (Timeline: 30 days of receipt of FCE report*)

- Used “preponderance of the evidence” standard to determine competence.

CR finding:

- Competent (Proceedings resume)
- Incompetent (IJ orders QR)
 - “Order for Provision of a Qualified Representative” submitted within 24 hours

Date of CR finding: _____

- CR finding stated on the record

Qualified Representative (QR) provided: (Timeline: 60 days of JCI or 21 days of CR)

Date E-28 filed by QR: _____

- Stated on record that QR has been provided

Other safeguards and protections considered:

- Additional safeguards or protections considered and, if required, provided.

List additional safeguards or protections: _____

- If safeguards insufficient to ensure fundamental fairness, proceedings stopped.

*The IJ may allow one extension of not more than 30 days for each time frame set forth above for the JCI, FCE, and CR. Additional extensions are allowed in exceptional circumstances or if fundamental fairness justifies.

FRANCO BOND HEARING considered:

- Sub-Class Two Member identified *before* 180th day of detention is entitled to a bond hearing between 180–195th day of detention
- Sub-Class Two member first identified *after* 180th day of detention is entitled to a bond hearing within 15 days of identification

Date *Franco* bond hearing held: _____

- DHS required to establish by clear and convincing evidence that on-going detention is justified
- Subclass One member represented by a QR at the bond hearing
- Outcome of bond hearing: _____