

Franco-Gonzalez v. Holder – Summary of ICE Notices

NOTICE CAPTION	PURPOSE	WHAT TO DO UPON RECEIPT	SAMPLE LANGUAGE FROM NOTICE
<p>DEPARTMENT OF HOMELAND SECURITY'S [UPDATED] NOTICE OF FRANCO-GONZALEZ CLASS MEMBERSHIP AND REQUEST FOR COMPETENCY INQUIRY</p>	<p><i>Filed in <u>case-in-chief</u> to identify respondent as Franco class member and to seek Judicial Competency Inquiry (JCI)</i></p>	<ul style="list-style-type: none"> • Confirm respondent is detained and unrepresented. • If respondent is detained and unrepresented, schedule a JCI within 21 days of receipt. • Update the CASE Competency Tab. <ul style="list-style-type: none"> ○ NOTE: The book-in information should be provided in this notice, most likely in a footnote. Please include this date in the database entry. 	<p><i>"[T]he respondent—if unrepresented—is a member of the class certified in Franco-Gonzalez...."; "Pursuant to the district court's orders, the Immigration Court must conduct an inquiry regarding the respondent's mental competency within 21 days and, if the respondent is determined not competent to represent him- or herself, arrange for the provision of a Qualified Representative."</i></p>
<p>DEPARTMENT OF HOMELAND SECURITY'S NOTICE OF FRANCO-GONZALEZ CLASS MEMBERSHIP</p>	<p><i>Filed in <u>bond proceedings of Franco class member</u> to alert immigration court that Franco bond hearing may be required</i></p>	<ul style="list-style-type: none"> • Confirm respondent is detained and unrepresented. • If respondent is detained and unrepresented, schedule <i>Franco</i> bond hearing within the timeframes set forth in the Implementation Order. <ul style="list-style-type: none"> ○ EXCEPTION: If respondent has already had a <i>Rodriguez</i> or <i>Franco</i> bond hearing, a second bond hearing is <u>not</u> required unless or until the respondent has been found incompetent and a QR has been provided and is in attendance at the bond hearing. • NOTE: The book-in date should be provided in the body of the notice. 	<p><i>"...as soon as is practicable, but no more than 15 days, after [a Franco class member] has been detained for 180 days.... If the respondent has been detained for 180 days at the time he or she is identified as a Class member, the district court's orders require the Immigration Court to schedule the bond hearing within 15 days of identification."</i></p>
<p>DEPARTMENT OF HOMELAND SECURITY'S [UPDATED] NOTICE OF FRANCO-GONZALEZ CLASS MEMBERSHIP AND REQUEST FOR LIMITED REMAND</p>	<p><i>Filed with the Board in case of Franco class member to seek remand pursuant to <i>Franco</i></i></p>	<ul style="list-style-type: none"> • Following remand from the Board: <ul style="list-style-type: none"> ○ If this is first Notice of <i>Franco</i> Class Membership (or first Notice filed after 1/27/15), the JCI must be held within 90 days of the date that the Notice was filed with the Board. ○ NOTE: Where a prior competency determination was made, ICE may be asking for remand just to clarify on the record whether the prior determination was made using the pro se competency standard set forth in the Implementation Order. 	<p><i>"Accordingly, the Department respectfully requests that the Board remand this matter for the limited purpose of allowing the Immigration Court to conduct an inquiry regarding the respondent's mental competency to represent him- or herself."</i></p>
<p>DEPARTMENT OF HOMELAND SECURITY'S NOTICE CONCERNING MENTAL HEALTH STATUS AND REQUEST FOR COMPETENCY INQUIRY</p>	<p><i>Filed with the <u>immigration court or the Board</u> for respondents who are <u>not Franco class members</u> in order to seek an inquiry pursuant to <i>Matter of M-A-M-</i></i></p>	<ul style="list-style-type: none"> • Confirm representation status. • NOTE: ICE should be filing these notices only in cases where the respondent is represented and therefore is NOT a <i>Franco</i> class member. • <u>No specific action required pursuant to <i>Franco</i></u>. However, if it appears the respondent is detained and <i>unrepresented</i>, you may wish to confirm his or her status as a <i>Franco</i> class member with ICE. 	<p><i>"Because the respondent is currently represented, s/he would not qualify as a member of the class certified in Franco-Gonzalez v. Holder..."</i></p>
<p>DEPARTMENT OF HOMELAND SECURITY'S NOTICE OF POSSIBLE MEMBERSHIP IN FRANCO-GONZALEZ CLASS ACTION</p>	<p><i>Filed with the <u>immigration court</u> before 1/27/15 for respondents who may have met the pre-implementation criteria under <i>Franco</i></i></p>	<ul style="list-style-type: none"> • Not a Notice of Class Membership—the filing of this type of notice does not, on its own, constitute <i>Franco</i> class membership. • These notices were filed based on the broader mental health criteria in place prior to the court's Oct 29, 2014 Further Implementation Order. • Notice does not require any further action under <i>Franco</i>, but may be considered along with any other information in the record for indicia or bona fide doubt as to competency for self-representation. 	<p><i>"[T]he respondent...may be a member of the class certified in Franco-Gonzales v. Holder..."; "In this case, there is evidence that the respondent may meet the criteria included within the "Notice to Government Agency Personnel Handling Detained Dockets Where the Alien May Have a Serious Mental Health Disorder or Defect,"..."</i></p>