



BIA
20-01

Effective: January 30, 2020

To: BIA Legal Staff
From: Garry Malphrus, Acting Chairman
Date: January 30, 2020

CASE HOLD

PURPOSE:	Temporary suspension of adjudication of certain cases
OWNER:	Board of Immigration Appeals
AUTHORITY:	8 C.F.R. §§ 1003.1(a)(2)(i)(A) and (e)(8)(iii)
CANCELLATION:	Case Hold – <i>Section 7611 of the National Defense Authorization Act for Fiscal Year 2020 (Liberian Adjustment of Status under NDAA)</i>

As you are aware, the Director has instructed the Board to defer adjudication of an appeal for certain Liberian nationals pending the disposition of their application for adjustment of status as provided by section 7611 of the NDAA by the Department of Homeland Security. *See* PM 20-06, *Section 7611 of the National Defense Authorization Act of 2020, Public Law 116-92* (Jan. 13, 2020); *see also* 8 C.F.R. § 1003.0(b)(1)(ii). Given this development, the Board will temporary defer adjudication of appeals for certain Liberian cases currently in exclusion, deportation, or removal proceedings consistent with PM 20-06. *See* 8 C.F.R. §§ 1003.1(a)(2)(i)(A) and (e)(8)(iii).

The PM specifically states that:

[f]or cases pending at the Board involving non-detained aliens currently in proceedings who: (1) have established *prima facie* eligibility for adjustment of status pursuant to NDAA §§ 7611(b)(1)-(3) and (c)(1)-(2); and (2) have submitted an application to DHS for such adjustment of status and provided proof of such submission, the Board will complete the record of appeal, including the receipt of briefs by the parties. The Board should proceed with the disposition of the appeal if the Board's decision will either: (1) terminate, or affirm the termination of, proceedings against the alien; or (2) grant, or affirm the grant of, relief¹ (except voluntary departure) or Temporary Protected Status to the alien. In all other such cases, the

¹ Withholding of removal under INA § 241(b)(3) and withholding or deferral of removal under the Convention Against Torture constitute forms of protection, rather than relief from removal.

Board should defer adjudication of the appeal until notice of disposition of the alien's application is approved under the NDAA is provided to the Board.

PM-20-06, page 3-4.

Each case that appears to fall within this criteria must be scrutinized to determine whether deferral of adjudication of the appeal by the Board pending the DHS adjudication of the alien's adjustment of status application under section 7611 of NDAA is appropriate. For any case that appears to warrant a hold, the attorney must provide a brief statement to his or her supervisor that explains why the case meets the criteria for adjustment of status under section 7611 of the NDAA, and whether deferral of adjudication by the Board is appropriate.² Such statement should be attached to the Board Wide Holds Routing Sheet.

² For detained aliens who are *prima facie* eligible for adjustment of status pursuant to NDAA § 7611, the appropriateness of deferral of adjudication by the Board will be handled on a case-by-case basis. See PM 20-06 at n. 3.