



**U.S. Department of Justice**  
Executive Office for Immigration Review  
*Office of the Chief Immigration Judge*

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January 31, 2017

**MEMORANDUM**

**To:** All Immigration Judges  
All Court Administrators  
All Immigration Court Staff

**From:** MaryBeth Keller   
Chief Immigration Judge

**Subject:** Case Processing Priorities

This memorandum serves to rescind the February 3, 2016, memorandum (“Revised Docketing Practices Relating to Certain EOIR Priority Cases”) and the March 24, 2015, memorandum (“Docketing Practices Relating to Unaccompanied Children Cases and Adults with Children Released on Alternatives to Detention Cases in Light of New Priorities”). Our case processing priorities will be limited to the following three categories of cases:

- (1) All detained individuals<sup>1</sup>,
- (2) Unaccompanied children in the care and custody the Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR) who do not have a sponsor identified, and
- (3) Individuals who are released from custody on a *Rodriguez* bond.

This change is being made to refocus the Immigration Courts’ resources on EOIR’s highest processing priority: individuals who are detained by the Department of Homeland Security (DHS) pending their removal proceedings. This memorandum is effective immediately.

The cases that are no longer the highest docketing and processing priority are as follows:

- (1) All other unaccompanied children,
- (2) Adults with children who are released on alternatives to detention,
- (3) Adults with children who may have been initially detained but then subsequently released from custody, and

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<sup>1</sup> This focus on detained cases includes proceedings held through the Institutional Hearing Program (IHP) for individuals incarcerated at correctional institutions nationwide. Further information regarding the increased use of IHP will be forthcoming.

- (4) Recent border crossers who may have been initially detained but then subsequently released from custody.

The above cases should be scheduled for hearings and adjudicated as any other non-priority case.

## **I. Unaccompanied Children**

The Department of Homeland Security (DHS) may continue to mark Notices to Appear (NTAs) for unaccompanied children with the designation UC. However, there will now be three categories of UCs. The first category is UCs who are not in the care and custody of HHS/ORR. The other two categories both involve UCs in the care and custody of HHS/ORR and fall into two types: UCs with a sponsor identified and UCs who do not have a sponsor identified. Whether a UC case is a processing priority depends on the category that a UC falls under, as described below.

UCs who are not in the care and custody of HHS/ORR are no longer a priority. For UCs who are in the care and custody of HHS/ORR, court staff will determine if the UC falls into a priority category based on the review of the form that DHS will submit with the NTA entitled *Unaccompanied Child (UC) Case Status Summary, Office of Refugee Resettlement, Department of Health and Human Services* (“Case Status Summary”).<sup>2</sup> The Case Status Summary form includes the UC’s name, alien number, address, and “Sponsor category.” Court staff must carefully review the Case Status Summary to determine the correct sponsor category and follow the instructions below.

### **a. Unaccompanied Children who are not in the Care and Custody of HHS/ORR**

Unaccompanied children (UC) who are not in the care and custody of HHS/ORR will no longer be a docketing priority, even if DHS marked the NTA with the UC designation. Accordingly, the cases of these unaccompanied children, whether pending or newly filed, will no longer be case processing priorities.

### **b. Unaccompanied Children in the Care and Custody of HHS/ORR with a Potential Sponsor Identified**

Unaccompanied children (UC) who are in the care and custody of HHS/ORR with a potential sponsor will have the “Category 1-3: Potential sponsor identified” box checked on the Case Status Summary form. These cases will no longer be a docketing priority, even if DHS marked the NTA with the UC designation. Accordingly, the cases of these unaccompanied children, whether pending or newly filed, will no longer be case processing priorities.

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<sup>2</sup> This form is attached as Appendix A.



**c. Unaccompanied Children in the Care and Custody of HHS/ORR with No Potential Sponsor Identified**

Unaccompanied children (UC) who are in the care and custody of HHS/ORR with no potential sponsor will have the “Category 4: No sponsor identified” box checked on the Case Status Summary form. These cases are a case processing priority as they will remain in HHS’s long-term care at the expense of the Government. HHS/ORR refers to these children as Category 4 UC. The cases of such respondents should be scheduled and adjudicated with the same priority as other detained juveniles, unless and until released from custody.

**II. Adults with Children Released on Alternatives to Detention**

Adults with children who are released on alternatives to detention (AWC/ATD) will no longer be a case processing priority, even if DHS marked the NTA with the AWC/ATD designation. However, DHS may continue to mark Notices to Appear (NTAs) for adults with children who are released on alternatives to detention with the AWC/ATD designation.

**III. Adults with Children/Detained**

Adults with children who are in DHS custody (AWC/D) remain a case processing priority because they are detained individuals. DHS may continue to mark Notices to Appear (NTAs) for adults with children who are detained with the designation AWC/D. However, AWC/D cases in which the respondents may have been initially detained, but subsequently released from custody will not be case processing priorities.

**IV. Recent Border Crossers/Detained**

Recent border crossers who are in DHS custody (RBC/D) remain a case processing priority because they are detained individuals. DHS may continue to mark Notices to Appear (NTAs) for recent border crossers who are detained with the designation RBC/D. However, RBC/D cases in which the respondents are released from custody will not be case processing priorities.

**V. Individuals Released on a *Rodriguez* Bond**

Under *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), *cert granted* 136 S. Ct. 2489 (2016), individuals within the jurisdiction of the Ninth Circuit who are detained for six months or more, including those who would otherwise be subject to mandatory detention, are entitled to an automatic bond hearing before an Immigration Judge. In addition, individuals who are detained for more than 12 months are also entitled to automatic, periodic bond hearings at six-month intervals. The cases of respondents who have been released from detention pursuant to a *Rodriguez* bond remain a case processing priority. These cases should be completed promptly and efficiently, while safeguarding due process and the opportunity to be heard. Court staff should use the following procedures for individuals released on *Rodriguez* bonds:

- If a detained respondent whose proceedings are pending before the court is released as a result of a *Rodriguez* bond hearing, DHS will mark the top right-hand corner of the Form I-830 with the acronym “CR” (custody review).
- If upon the Immigration Court’s receipt of a properly filed Form I-830 court staff determine that: (1) a *Rodriguez* bond hearing was conducted; and (2) removal proceedings remain pending before the Immigration Court, court staff should enter the priority case identifier “CR” into the CASE system.
- Given that these cases are to be completed as soon as possible consistent with due process, court staff must proceed as follows: When a case is administratively transferred to a non-detained docket, court staff should schedule a master calendar hearing no earlier than 30 days following the respondent’s release from custody and no later than 90 days after such release. If the 90th day falls on a Saturday, Sunday, or legal holiday, court staff should schedule the case no later than the last business day before the Saturday, Sunday, or legal holiday. Following the first Master Calendar hearing, all subsequent hearings should be scheduled as soon as possible consistent with due process. Accordingly, non-priority cases should be rescheduled to make docket time available so that these cases are completed as promptly as possible and are not extended solely due to calendar unavailability.

## **VI. Conclusion**

As additional issues arise relating to our priorities, further guidance may be forthcoming. Please contact your Assistant Chief Immigration Judge with any questions you may have concerning this memorandum.

## **Appendix A**



**Unaccompanied Child (UC) Case Status Summary  
Office of Refugee Resettlement, Dept. of Health and Human Services**

<b>UC Name:</b>	<b>Alias:</b>
<b>A Number:</b>	<b>Date Entered ORR Care:</b>
<b>Number of days in ORR Care:</b>	<b>Date:</b>

The above referenced UC is in the care and custody of the Office of Refugee Resettlement at the following location:

Facility Name		
Facility Address		
City	State	Zip

**Sponsor category:**

Categories 1-3: Potential sponsor identified.

Category 4: No sponsor identified