U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB# 1125-0002

Notice of Appeal from a Decision of an Immigration Judge

GENERAL INSTRUCTIONS
(Please read carefully before completing and filing Form EOIR-26)

A. When to Appeal:

- Use this form (Form EOIR-**26**) only to appeal a decision by an **Immigration Judge**. If you wish to appeal a decision of the U.S. Citizenship and Immigration Services (USCIS), you must use a different form (Form EOIR-**29**).
- You must send the Notice of Appeal so that it is **received** by the Board within thirty (30) calendar days after the Immigration Judge's oral decision, or within thirty (30) calendar days after the date the Immigration Judge's written decision was mailed (if no oral decision was rendered).
- Simply mailing your Notice of Appeal in thirty (30) days or less is not enough. Your Notice of Appeal must **arrive** at the Board in thirty (30) days or less. If your Notice of Appeal arrives late, your appeal will be dismissed.

B. Where to Appeal:

To send by courier or overnight delivery service, or to deliver in person, use this address:	Board of Immigration Appeals Clerk's Office 5107 Leesburg Pike, Suite 2000 Falls Church, VA 22041	*To send by regular first-class mail use this address:*	Board of Immigration Appeals Clerk's Office P.O. Box 8530 Falls Church, VA 22041

Cited in Turicos v. Holder, No. 05-72258 archived on October 2, 2009

C. How to Appeal:

- Read all of these instructions. **Note:** If you are the person in proceedings, you are the "Respondent" or "Applicant."
- Fill out all three pages of the Notice of Appeal completely, answering items # 1 - 12 **in English only**.
- List in item # 1 the name(s) and Alien Number(s) ("A" numbers) of **all** Respondents/Applicants who are appealing the decision of the Immigration Judge.
- Sign item # 9.
- List the mailing address of the Respondent(s)/Applicant(s) in item # 10.
- Translate all documents that you attach to the Notice of Appeal into English. All translations must include the translator's statement stating that the translator is competent and that the translation is true and accurate.
- Write your name(s) and "A" Number(s) on all documents attached to the Notice of Appeal.
- Mail or give a copy of the completed Notice of Appeal and any attached documents to the opposing party. Complete and sign the "Proof of Service" to show you did this (item # 12). **Note:** If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of the U.S. Immigration and Customs Enforcement (ICE) of the Department of Homeland Security (DHS).
- Your appeal may be rejected or dismissed if you fail to properly complete the "Proof of Service" (item # 12).

D. Paying for the Appeal:

- Attach a check or money order to the Notice of Appeal for exactly one hundred and ten dollars (U.S. $110) made payable to "United States Department of Justice." All checks must be drawn on a bank located in the United States. If there are not sufficient funds in your account, your appeal may be dismissed.

- Write the name(s) and "A" Number(s) of all Respondent(s)/Applicant(s) on the check or money order.
- If you cannot pay for the appeal, complete a Fee Waiver Request (Form EOIR-26A) and attach it to the Notice of Appeal. The Board will review your request and decide whether to allow the appeal without payment of the fee.
- Your appeal may be rejected or dismissed if you fail to submit a fee or a properly completed Fee Waiver Request (Form EOIR-26A).

E. Lawyer or Representative Allowed:

- You may be represented by an attorney or representative who is authorized to appear before the Board. The Government will not pay for your attorney or representative, and an attorney or representative will not be provided to you.
- If you are represented by an attorney or authorized representative, he or she **must** file, **with** the Notice of Appeal, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

F. Specify Reasons for the Appeal:

- Give specific details why you disagree with the Immigration Judge's decision.
- Most appeals are reviewed by a single Board Member. If you assert that your appeal warrants review by a three-Board Member panel, you may identify the specific factual or legal basis for your contention.

  Cases will be reviewed by a three-member panel only if the case presents one of these circumstances:
  - The need to settle inconsistencies among the rulings of different Immigration Judges;
  - The need to establish a precedent construing the meaning of laws, regulations, or procedures;
  - The need to review a decision by an Immigration Judge that is not in conformity with the law or with applicable precedents;
  - The need to resolve a case or controversy of major national import;
  - The need to review a clearly erroneous factual determination by an Immigration Judge; or
  - The need to reverse the decision of an Immigration Judge other than a reversal under 8 C.F.R. § 1003.1(e)(5).

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- Specify the finding(s) of fact, the conclusion(s) of law, or both, that you are challenging. If a question of law is presented, cite supporting legal authority. If the dispute is over the findings of fact, identify the specific facts you are challenging.
- Where the appeal concerns discretionary relief, state whether the alleged error relates to statutory grounds of eligibility or to the exercise of discretion. Identify the specific factual and legal findings you are challenging.
- If you do not give specific reasons, with details, in item # 6, or in attachments to your Notice of Appeal, the Board may dismiss your appeal on that basis alone.

G. Briefs:

- Indicate in item # 8 whether you intend to file an additional written brief or statement at a later date. The Board will send you a briefing schedule and, when appropriate, a transcript of the testimony.
- Even if you intend to file an additional brief or statement at a later date, you still must give detailed reasons for your appeal on the Notice of Appeal in item # 6 and attachments.

H. Oral Argument:

- If you ask for oral argument in item # 7, the Board will notify you if your request is granted.
- Even if you ask for oral argument, you still must give detailed reasons for your appeal on the Notice of Appeal in item # 6 and attachments.

- The Board ordinarily will not grant a request for oral argument unless you also file a brief.
- If you request oral argument, you should also state in item # 6 why you believe your case warrants review by a three-member panel.

I. Change of Address:

- If you move after sending your Notice of Appeal to the Board, you must give your new address **to the Board** within five (5) working days after you move. Use an alien's Change of Address Form (Form EOIR-33/BIA).
- Attorneys or representatives must also let the Board know if they change addresses or phone numbers, using Form EOIR-27. An attorney's or representative's change of address notification is only effective for the case in which it is submitted.

J. Further Information:

- For further guidance please see the Board of Immigration Appeals *Practice Manual* and *Questions and Answers*, which are available on the EOIR website at www.usdoj.gov/eoir.

K. Paperwork Reduction Act:

- Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is thirty (30) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church,Virginia 22041.

Cited in Turcoo v. Holder, No. 05-72258 archived on October 2, 2009

Departure From the United States:

If you leave the United States after an Immigration Judge's decision in removal or deportation proceedings, but before you appeal the decision to the Board, you may have waived your right to appeal. If you leave the United States after filing an appeal with the Board, but before the Board decides your appeal, your appeal may be withdrawn and the Immigration Judge's decision put into effect as if you had never filed an appeal.

Summary Dismissal of Appeal:

The Board may summarily dismiss any appeal or portion of any appeal in which: (1) The appellant fails to specify the reasons for the appeal (see Part F); (2) The only reason specified by the appellant for his/her appeal involves a finding of fact or conclusion of law that was conceded by him/her at a prior proceeding; (3) The appeal is from an order that granted the appellant the relief that had been requested; (4) The appeal is filed for an improper purpose, such as unnecessary delay, or lacks an arguable basis in fact or law, unless the Board determines that it is supported by a good faith argument for extension, modification, or reversal of existing law; (5) The appellant indicates on Form EOIR-26 that he/she will file a separate brief or statement in support of the appeal and, thereafter, does not file such brief or statement, or reasonably explain his/her failure to do so, within the time set for filing (see Part G); (6) The appeal does not fall within the Board's jurisdiction or jurisdiction lies with the Immigration Judge rather than the Board; (7) The appeal is untimely or barred by an affirmative waiver of the right to appeal that is clear on the record; or (8) The appeal fails to meet essential statutory or regulatory requirements or is expressly excluded by statute or regulation.

WARNING! You must:

- Sign the Notice of Appeal (item # 9).
- Include the fee or Fee Waiver Request (Form EOIR-26A).
- Complete and sign the Proof of Service.
- Make sure your appeal is **received** at the Board on or before the filing due date.

U.S. Department of Justice
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Notice of Appeal from a Decision of an Immigration Judge

1. List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):

Staple Check or Money Order Here. Include Name(s) and "A" Number(s) on the face of the check or money order.

For Official Use Only

WARNING: Names and "A" Numbers of **everyone** appealing the Immigration Judge's decision must be written in item #1. The names and "A" numbers listed will be the only ones considered to be the subjects of the appeal.

Cited in Tuncos v. Holder, No. 05-72258 archived on October 2, 2009

2. I am ❑ the Respondent/Applicant ❑ DHS-ICE *(Mark only one box.)*

3. I am ❑ DETAINED ❑ NOT DETAINED *(Mark only one box.)*

4. My last hearing was at _____ *(Location, City, State)*

5. **What decision are you appealing?**

Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

❑ I am filing an appeal from the Immigration Judge's decision *in **merits** proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated _____ .

❑ I am filing an appeal from the Immigration Judge's decision *in **bond** proceedings* dated _____ . (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court? ❑ Yes. ❑ No.)

❑ I am filing an appeal from the Immigration Judge's decision ***denying a motion to reopen or a motion to reconsider*** dated _____ .

(Please attach a copy of the Immigration Judge's decision that you are appealing.)

Form EOIR-26
Revised Oct. 2008

6. **State in detail the reason(s) for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.**

(Attach additional sheets if necessary)

WARNING: You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

Cited in Turicos v. Holder, No. 05-72258 archived on October 2, 2009

7. Do you desire oral argument before the Board of Immigration Appeals? ❑ Yes ❑ No

8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? ❑ Yes ❑ No

WARNING: If you mark "Yes" in item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule.

9. **SIGN HERE** **X** _____ _____

Signature of Person Appealing *(or attorney or representative)* — Date

Form EOIR-26
Revised Oct. 2008

10. **Mailing Address of Respondent(s)/Applicant(s)**

(Name)

(Street Address)

(Apartment or Room Number)

(City, State, Zip Code)

(Telephone Number)

11. **Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)**

(Name)

(Street Address)

(Suite or Room Number)

(City, State, Zip Code)

(Telephone Number)

NOTE: You must notify the Board within five (5) working days if you move to a new address. You must use an alien's Change of Address Form (Form EOIR-33/BIA).

NOTE: If an attorney or representative signs this appeal for you, he or she must file *with this appeal*, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

12. **PROOF OF SERVICE (You Must Complete This)**

Cited in Turicos v. Holder, No. 05-72258 archived on October 2, 2009

I _____ mailed or delivered a copy of this Notice of Appeal
(Name)

on _____ to _____
(Date) (Opposing Party)

at _____
(Number and Street, City, State, Zip Code)

SIGN HERE X _____
Signature

NOTE: If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of DHS - ICE.

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed.

WARNING: If you do not attach the fee or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.

HAVE YOU?

- ❑ Read all of the General Instructions
- ❑ Provided all of the requested information
- ❑ Completed this form in English
- ❑ Provided a certified English translation for all non-English attachments
- ❑ Signed the form
- ❑ Served a copy of this form and all attachments on the opposing party
- ❑ Completed and signed the Proof of Service
- ❑ Attached the required fee or Fee Waiver Request
- ❑ If represented by attorney or representative, attach a completed and signed EOIR-27