

VIA PERSONAL DELIVERY

Clerk of the Court
Office of the Immigration Judge
Executive Office for Immigration Review
630 Sansome Street, Fourth Floor
San Francisco, CA 94111

RE: Request to Set Bond Redetermination/Custody Hearing
 [Name]
 A#

Dear Sir/Madam:

By this letter I request, pursuant to 8 C.F.R. § 1003.19, a review, by an Immigration Judge, of the custody and bond determination made by the Immigration and Customs Enforcement with regard to the above named individual. Enclosed please find my form EOIR-28, authorizing my representation in this matter, as well as a Proposed Order and Proof of Service on the opposing counsel.

The regulations clearly provide that after an initial custody determination by DHS, the respondent may request amelioration of the conditions under which he or she may be released. The Immigration Judge has the authority to detain the alien in custody, release the alien, and determine the amount of bond, if any, under which respondent may be released. 8 C.F.R. § 1236.1; 8 C.F.R. § 1003.19. Under 8 C.F.R. § 1003.19(c), applications of the exercise of authority to review bond determinations are to be made first, if the respondent is detained, to the Immigration Court having jurisdiction over the place of detention.

In this case, the respondent is being detained by the San Francisco District Office and is **currently housed in the ***, California. **The ICE issued a Notice to Appear on *** and Respondent currently has a *** hearing scheduled for ***.

ICE has determined that Respondent is to be held in custody without bond and Respondent requests that an Immigration Judge redetermine this decision at the earliest possible date. Under 8 C.F.R. § 1003.14, "no charging document is required to be filed with the Immigration Court to commence bond proceedings pursuant to §§ 1003.19, 236.1(d) and 1240.2(b)." (emphasis added). Thus, it is not necessary that a Notice to Appear (which is by definition a charging document under 8 C.F.R. § 1003.13) be filed with the Immigration Court for an Immigration Judge to have jurisdiction over the custody determination. In this case, however, an NTA has, to the best of my knowledge, been filed with the Court, but has not yet been entered into the system computer.

Clerk of the Court

[Name and A#]

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Respondent has been held in ICE custody since *. Counsel requests that a Bond Redetermination Hearing be calendared immediately so that an Immigration Judge can review the determination by the DHS that Respondent is to be held without bond.

Thank you for your prompt attention to this matter.

Sincerely,

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Enclosures

cc: Office of the Chief Counsel, U.S. Immigration and Customs Enforcement

*

[Name]
A#

PROOF OF SERVICE BY PERSONAL DELIVERY

I, [Name], the undersigned, say:

I am over the age of eighteen years and not a party to the within action or proceedings;
my business address is Van Der Hout, Brigagliano & Nightingale, LLP, 180 Sutter Street, Fifth
Floor, San Francisco, CA 94104.

On [Date], I caused to be served the within:

Cover Letter;
Form EOIR-28;
Form G-28 (original);
Request to Set Bond Redetermination/Custody Hearing; and
Proposed Order

on the opposing counsel by personal delivery to the following address(es):

[Name of ICE OCC Assistant Chief Counsel, if
known]
Department of Homeland Security
U.S. Immigration and Customs Enforcement
Office of the Chief Counsel
630 Sansome Street, Room 1155
San Francisco, CA 94111

Executed on [Date], at San Francisco, California. I declare under penalty of perjury,
under the laws of the State of California that the foregoing is true and correct.

Declarant