



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals

Chairman

5107 Leesburg Pike, Suite 2400
Falls Church, Virginia 22041

May 1, 2013

BIA 13-02

MEMORANDUM TO: Board Legal Staff
Board of Immigration Appeals

FROM: David L. Neal
Chairman

SUBJECT: Unrepresented Detained Aliens with Competency Issues

On April 22, 2013, the Office of the Chief Immigration Judge announced that it would implement certain procedural protections for detained mentally incompetent respondents appearing before the immigration courts. (The memorandum of the Chief Immigration Judge is attached for your reference.) One of those protections is that EOIR will make available a qualified legal representative to represent those respondents who are detained, unrepresented, and not mentally competent to represent themselves in immigration proceedings.

In complement to that protection, the Board will suspend adjudication of any appeal or motion that involves an unrepresented detained respondent who has been deemed incompetent to represent himself or herself in immigration court proceedings below. This applies both to removal and bond proceedings.

Respondents deemed incompetent by an immigration judge. Effective immediately, if an attorney or paralegal identifies a case in which the respondent is detained, unrepresented, and deemed incompetent to represent himself or herself, the case should be brought to the attention of his or her Team Leader. Once the Team Leader confirms that the respondent fits this description, the Team Leader will take the following steps:

- Stop the adjudication clock in CASE, and record in the comments field: "Adjudication suspended -- representation pending."
- Forward the name and alien registration number of the respondent to Senior Legal Advisor Beth Liebmann, with a cc to Suzette Henderson.
- Complete a Quality Problem Correction Form and return the record of proceedings to the Clerk's Office.