



## Advisory: Bond Hearings for Certain Immigrants Subject to Six Months or More of Detention in the Ninth Circuit Under *Aleman Gonzalez v. Sessions*

On June 5, 2018, the U.S. District Court for the Northern District of California issued an order in *Aleman Gonzalez v. Sessions* requiring that certain immigrants detained for six months or more receive bond hearings before an Immigration Judge. This advisory will explain if you qualify for an *Aleman Gonzalez* hearing. It will also explain how to get a hearing if you qualify. A copy of the district court's order is attached to this advisory.

### Am I covered by the order?

Under the court order, you will receive a bond hearing if **all** three requirements apply to you:

- 1) You are detained in one of the following states or territories within the jurisdiction of the Ninth Circuit: Alaska, Arizona, California,<sup>1</sup> Guam, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington<sup>2</sup>.
- 2) You have been detained for **six months or longer in immigration detention**. Time spent in jail or prison because of a criminal case does not count toward the six months.
- 3) You are presently detained under 8 U.S.C. § 1231(a)(6) and have a live claim. You are probably detained under 8 U.S.C. § 1231(a)(6) with a live claim if one of these things is true:
  - You are in “withholding-only” proceedings before an Immigration Judge or the Board of Immigration Appeals (“BIA”) in which you are applying for withholding of removal and/or protection under the Convention Against Torture.
  - You were in withholding-only proceedings, your withholding of removal and/or Convention Against Torture application(s) were denied, and you filed a petition for review with the Ninth Circuit.
  - You have an old deportation order that has been reinstated, or you have been issued an administrative removal order, and are waiting for a reasonable fear interview.

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<sup>1</sup> If you are detained in California at the Mira Loma Detention Center, Adelanto Detention Facility, Santa Ana Jail, Theo Lacy Detention Facility, or James Musick Detention Center, you are eligible for a bond hearing after you have been detained for six months under a different court decision, *Rodriguez v. Holder*.

<sup>2</sup> If you are detained at the Tacoma Northwest Detention Center, and in withholding only proceedings, you are eligible for a bond hearing after you have been detained for six months under a different court decision, *Baños v. Asher*. If you otherwise meet the three requirements, and are detained in the Tacoma Northwest Detention Center, you are covered under *Aleman Gonzalez*.

- You received a negative reasonable fear decision from the Asylum Office or an Immigration Judge and filed a petition for review with the Ninth Circuit.
- You have an old deportation order that ICE is trying to reinstate and you filed a petition for review with the Ninth Circuit to challenge the reinstatement of that old deportation order.
- You have a deportation order and are now trying to reopen your case with the Immigration Judge or the Board of Immigration Appeals.

The *Aleman Gonzalez* order requires bond hearings for individuals who are detained in the Ninth Circuit (with some geographic exceptions discussed below because those individuals are already entitled to bond hearings) under 8 U.S.C. § 1231(a)(6), INA § 241(a)(6), and who have been detained for more than 180 days.

### **How and when do I get a bond hearing?**

The government is required to automatically provide hearings to those who are eligible. You are eligible if all three requirements described above apply to you. If you are covered by the *Aleman Gonzalez* order and have already been detained for more than six months, you should automatically receive a bond hearing. If you aren't ready to go forward on your hearing date, you can always request a continuance from the judge to find an attorney or prepare evidence.

If you want to ensure you receive your hearing as quickly as possible, you can file a *Notice* with the Immigration Court of the District Court's decision and a request for the court to *schedule* an immediate bond hearing. Attached to this advisory is a sample request.

### **What will happen at my bond hearing?**

At the bond hearing, the government has the burden to show by clear and convincing evidence that you are a flight risk or a danger to the community to keep you detained. But, it is a good idea for you to present evidence on your own behalf to strengthen your argument for bond.

The judge is also required to consider your financial situation when setting a bond, so it is a good idea to include evidence of your financial resources.

If you or someone helping you with your case has access to the internet, the following guides can help you prepare for your bond hearing:

- *Getting a Bond: Your Keys to Release from Detention*: <http://firrp.org/media/Bond-Guide-2013.pdf> (English); <http://firrp.org/media/Bond-Guide-2013-SPA.pdf> (Spanish)
- ACLU Advisory: Bond Hearings for Certain Immigrants Subject to Prolonged Immigration Detention Under *Rodriguez v. Robbins*: <http://www.endisolation.org/blog/wp-content/uploads/2013/04/Rodriguez-Advisory-v7-English-11.pdf>

You can also ask the court or your ICE officer for a list of legal services organizations who may be able to help you with your case for free.

**What should I do if I am covered by the order but do not receive a bond hearing?**

If you believe that you are covered by the *Aleman Gonzalez* order but do not receive a bond hearing or have problems requesting a bond hearing, please send a letter to:

*Centro Legal de la Raza*

*3400 East 12th Street*

*Oakland, CA 94601*

*Number to call from free telephone line (where available): \*7536*

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT**

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In the Matter of:

A \_\_\_\_\_

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Respondent,

In Bond Redetermination Proceedings.

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**REQUEST TO SCHEDULE  
CUSTODY REDETERMINATION HEARING  
UNDER *ALEMAN GONZALEZ v. SESSIONS***

I file this notice to make this Court aware of the Northern District of California's decision in *Aleman Gonzalez v. Sessions*, No. 18-CV-01869-JSC, 2018 WL 2688569 (N.D. Cal. June 5, 2018). Under that decision, I am entitled to a custody redetermination hearing because I have been in detention for over 180 days and I am detained pursuant to 8 U.S.C. § 1231(a)(6), INA § 241(a)(6). I request that this Court set me for a bond hearing, at which the government has the burden to establish by clear and convincing evidence that I am neither a danger nor a flight risk to the community, at the earliest possible date.

Respectfully submitted,

Dated:

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Respondent, Pro Se

