



What to Do If You Miss Your Immigration Hearing (How to File a Motion to Reopen)



This fact sheet talks about what to do if you miss your immigration court hearing and a judge orders you removed from the United States. It shares how to ask the court to take away your removal order and let you present your case to prevent deportation. It has a sample of the motion you need to file with the court.

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What Happens If You Miss Your Hearing

What happens if I miss my immigration hearing?

A judge can order you removed from the United States. This means you are at risk of being deported at any time. The removal order will say, “In Absentia.” This means you did not show up to court to argue your case. The judge will mail the removal order to your address on record with the court. If you moved and did not tell the court, the removal order will go to your old address. You must tell the court every time you move. LawHelpMN has a fact sheet that talks about how to tell the court you moved. Go to: lawhelpmn.org/self-help-library/fact-sheet/reporting-change-address-uscis

How do I find out if a judge ordered me removed from the U.S.?

If you miss a hearing, call or go online to find out if the judge ordered you removed.



By Phone. Call the EOIR hotline at **1-800-898-7180**. The hotline is in English and Spanish. Push 2 for help in Spanish. Enter your A-Number or “Alien Registration Number.” (Go to immigrationhelp.org to learn how to find your A-Number.) A recording will say if you are ordered removed or if you have a hearing scheduled.



Online. Visit acis.eoir.justice.gov. Enter your A-Number. It will tell you if you are ordered removed or if you have a hearing scheduled.

What should I do if a judge orders me to be removed from the U.S.?

Try to reopen your case. Do this by filing a **motion to reopen an in absentia order**.

- **You must file the motion within 180 days** of the date the judge ordered you removed. In your motion, say why you missed your hearing. If you missed the deadline for any reason, talk to an immigration lawyer. You can file a motion to reopen after the 180-day deadline if there is a special reason that made it hard to file the motion on time like a mental health issue or being in federal custody.
- **You can only file a motion to reopen 1 time.** If it is denied, you cannot file another motion to reopen. Send information to the court with your motion to prove why you missed your hearing. See the “How to File a Motion to Reopen an In Absentia Order” part of this fact sheet for examples.

- **If possible, talk to an immigration lawyer before you file your motion.** A lawyer can make sure you send the best information.

What are reasons the court might reopen my case?

You must have a good reason why you missed your hearing for the court to reopen your case.

Examples of “good reasons” are:

- Your mail was sent to your aunt’s house. Your aunt did not tell you that you had a hearing.
- You showed up at the wrong court because your hearing location was changed.
- Your car broke down on the way to the hearing.
- The court did not provide an interpreter in the language you are most comfortable using. You did not know when, how, or where to go to court.

These are not the only reasons the court might reopen your case. You might have a good reason to reopen your case if something happened that kept you from getting to court.



What if my removal order does not say “In Absentia” on it?

Do NOT use this fact sheet. Motions to reopen other types of orders have different rules. **If your removal order DOES NOT say “In Absentia” on it, talk to an immigration lawyer.**

Where can I find a lawyer to help me?

Search for free lawyers and legal clinics on LawHelpMN.org. Free lawyers are in high demand. You are not guaranteed a free lawyer just because you ask for one. You can also talk to a private lawyer if you can afford to pay about \$200 for a meeting.

What happens if my motion to reopen is granted?

- **A new hearing will be scheduled for you. You must go!** You will get a written notice in the mail saying your motion was granted. It will have your new hearing date and location. You can also call or check your hearing information online.
- **Make sure the court has your correct address.** It is important that the court knows your current address. If you move at any time, send a change of address form to your court.



Get ready to go to court for the first time.

LawHelpMN has a fact sheet about what to do before a hearing in immigration court. It talks about what to expect when you get to the courthouse. It can also help you find your hearing information. Scan the QR code or go to: lawhelpmn.org



Change your address with the court.

Complete Form EOIR-33IC and send it to the court. The form is at: justice.gov/eoir/file/640016/dl?inline LawHelpMN has a fact sheet that helps you change your address with the court. Scan the QR code or go to: lawhelpmn.org

What happens if my motion to reopen is denied?

Appeal the decision to the Board of Immigration Appeals. If you file an appeal, you are granted an “automatic stay” until that decision is made. This means that you cannot be deported until a judge makes a decision about your appeal. You must file your appeal within 30 days of when your motion to reopen was denied. **Find a lawyer to help with your appeal.** The Florence Immigrant and Refugee Rights Project has a guide that talks about how to file an appeal. Go to: firrp.org/media/BIA-Appeal-Guide-2013_new-BIA-address-2013.pdf



The Process to Reopen Your Case

How do I reopen my immigration case?

There are 6 steps to reopen your case.



Fill out a motion to reopen an in absentia order.

Instructions and a sample are in the “Sample Motion to Reopen an In Absentia Order” part of this fact sheet. A blank copy of the motion is available at [LawHelpMN](http://LawHelpMN.org).



Gather documents to send with your motion.

Send 4 things:

- **Motion to reopen an in absentia order.**
- **Evidence that proves why you missed your hearing.** There are examples of evidence in the “Sample Motion to Reopen an In Absentia Order” part of this fact sheet.
- **A change of address / contact information form.** Get Form EOIR-33 is at: justice.gov/eoir/file/640016/dl?inline
- **Fee receipt OR a fee waiver application.**
 - **Asylum seekers:** There is no fee. You must send your asylum application (Form I-589) with your motion.
 - **Everyone else:** There is a \$145 fee to file a motion to reopen. Send a fee waiver application (Form EOIR-26A). Get the form at: justice.gov/eoir/page/file/1237856/dl.
 - **If you make too much money to qualify for a fee waiver:** talk to an immigration lawyer. You must pay the fee before you file your motion and send your payment receipt.



STEP 4



STEP 5



Make 3 copies of the motion and supporting documents. Keep 1 copy of everything.

Mail 1 copy of the motion and supporting documents to the court that ordered you removed.

Find the name and address of the court that ordered you removed:

- **By Phone.** Call the EOIR hotline at **1-800-898-7180**.
- **Online.** Go to acis.eoir.justice.gov.

Mail 1 copy of the motion and supporting documents to the government lawyer or “OPLA office.”

This is also called “serving the government lawyer.” This address is different from the court’s address. To find the OPLA office assigned to your court:

- **Call the court that ordered you removed.** Tell them you are trying to file a motion to reopen an in absentia order. Ask for the name and address of the OPLA office assigned to your court.

STEP 6



Check to see if your case was reopened.

The court will mail you a letter with their decision. If your case was reopened, a new hearing will be scheduled. Call or check online to see if you have a hearing scheduled. You will be told the date, time, and location of your hearing.

- **By Phone.** Call the EOIR hotline at **1-800-898-7180**. Enter your A-Number or “Alien Registration Number.” Use the menu of options to check the date and time of your hearing. The hotline is in English and Spanish. Push 2 for help in Spanish.
- **Online.** Go to acis.eoir.justice.gov. Enter your A-Number. Look at “Next Hearing Information” and “Court Contact Information.”



Sample Motion to Reopen an In Absentia Order

What goes in a motion to reopen?

There are 4 parts to a motion to reopen an in absentia order. **Each part must be filled out in English.**

1. **Cover sheet.** This tells the court who you are and the place where you missed your hearing.
2. **Motion.** This tells the court why you missed your hearing.
3. **Order.** This is a form the court will fill out and send back to you. It is how the court will tell you if your request was approved.
4. **Certificate of service.** This tells the court when and how you sent a copy of the motion to the government lawyer.

Get a blank copy of this motion at: [LawHelpMN](#). Use the samples in this fact sheet to help you fill out the cover sheet, motion, order, and certificate of service. Fill in as much information as you can. If you do not have some of the information, like the name of the immigration judge, send the motion with as much information as you can.



What type of evidence should I send about why I missed my hearing?

Send any documents that prove why you missed your hearing. These documents must be sent in English. If the original document is not in English, an interpreter can translate it. You do not need to use a professional interpreter. A bilingual family member, friend, or acquaintance can do it. They must complete an interpreter form. [Link to the interpreter form.](#)



Example: Daniela moved and did not get her hearing notice.

Daniela could send anything that shows she lives at a different address. She should also send anything that shows why she did not tell the court about her move. This could be:

- Document showing her new address, like a utility bill.
 - Change of address letter from the U.S. Postal Service.
 - Signed letter from a family member saying Daniela lived with them until [date] and then moved.
 - Change of address form for the court. This form cannot be filed separately. Daniela needs to send it with her motion to reopen.
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Example: There was a big snowstorm and it was not safe for Rooble to drive to court.

Rooble could send anything that proves there was bad weather or a problem with his car. This could be:

- Copy of a local news story talking about the bad weather the day of Rooble's hearing.
 - Receipt from a car repair or tow truck service.
-



Example: Andres' lawyer gave him the wrong date for his hearing.

Andres could send anything that proves he had the wrong information. This could be:

- Letter from his lawyer that describes the mistake



Example: Isabella was a victim of domestic violence and could not get to her hearing.

Isabella could send as many things as she can that prove she survived domestic violence. She should also send as many things as she can that prove that she tried to get to court. This could be:

- Proof She Survived Domestic Violence
 - Threatening text or WhatsApp messages she received.
 - Medical records showing she got treatment.
 - Records of phone calls Isabella made to the police for help.
- Proof She Tried to Get to Court
 - Letters showing Isabella went to her check-ins with Immigration and Customs Enforcement (I.C.E.).
 - Text messages or letters showing she tried to get a ride to court. Her kids, family members, or friends can write letters.



Example: Astur did not know her hearing was moved to a different court. She showed up at the original court.

Astur could send anything that proves she went to the other court. This could be:

- Copy of her original hearing notice.
- The court where she went might have time-stamped a Change of Venue form for her. She should send this with her motion to reopen.

MOTION TO REOPEN AN IN ABSENTIA ORDER: SAMPLE COVER SHEET

Your Name: Write your full name here

Your Address: Write your address here

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

City and State: Write the city and state of your immigration court

In the Matters of:

Write your full name here
(Your Name)

File No.: A Write your A Number here
(Your Alien Registration Number)

Write your child or spouse's full name here
(Name)

File No.: A Write your child or spouse's A Number
(Alien Registration Number)

Write your child or spouse's full name here
(Name)

File No.: A Write your child or spouse's A Number
(Alien Registration Number)

Only include this part if you have a spouse or child included in your immigration court case.

Immigration Judge: Write the name of your immigration judge here

**RESPONDENT'S MOTION TO
REOPEN AN IN ABSENTIA ORDER**

RESPONDENT’S MOTION TO REOPEN AN IN ABSENTIA ORDER

Respondent Write your full name here, moves this Honorable Court to reopen these proceedings and rescind the in absentia order of removal.

In support of this motion, I state as follows:

- Write the date and location of your last hearing (the hearing you missed).
- Say why you missed your hearing. Give as many details as you can. You might say:
 - You did not receive your hearing notice.
 - You, your child, or your parent were seriously ill or a parent or child died.
 - You could not travel to court because of severe weather.
 - You, your child, or your parent were the victim of domestic violence.
 - You were in federal or state custody / prison / jail.
 - Another reason out of your control.
- Ask for your case to be reopened.
- Write this statement in English. You can ask someone you trust to write it down for you in English if you are not able to write in English.

Respectfully,

Sign your name here

(Signature)

Write your full name here

(Name)

Write today’s date here

(Dated)

MOTION TO REOPEN AN IN ABSENTIA ORDER: SAMPLE ORDER

United States Department of Justice
Executive Office for Immigration Review
Immigration Court

Write the city and state of your current immigration court here

[the court's location (city or town) and state]

In the Matter of: Write your full name here

Alien Number: Write your A-Number here

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the respondent's **Motion to Re-Open an In Absentia Order**, it is
HEREBY ORDERED that the motion be **GRANTED** **DENIED** because:

- DHS does not oppose the motion.
- The respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- Good cause has been established for the motion.
- The court agrees with the reasons stated in the opposition to the motion.
- The motion is untimely per _____.
- Other:

Deadlines:

- The application(s) for relief must be filed by _____.
- The respondent must comply with DHS biometrics instructions by _____.

_____ Date

_____ Immigration Judge

CERTIFICATE OF SERVICE

This document was served by: Mail Personal Service Electronic Service
To: Respondent Respondent's C/O Custodial Officer Respondent's Atty/Rep DHS
Date: _____ By: Court Staff _____
Attachments: EOIR-33 EOIR-28 Legal Services List Other



Leave this part blank. The court will fill out this part.

MOTION TO REOPEN AN IN ABSENTIA ORDER: SAMPLE CERTIFICATE OF SERVICE

Write your full name here

(Respondent's Name)

Write your A-Number here

(Respondent's Alien Number)

CERTIFICATE OF SERVICE

On Write today's date here

(date)

, I, Write your full name here

(printed name of person signing below)

served a copy of this **Motion to Reopen an In Absentia Order**,

and any attached pages to

Write "Office of the Principal Legal Advisor for DHS – ICE" here

(name of party served)

at the following address:

Write the address of your OPLA office here

(address of party served)

by

Write how you will send a copy to the government lawyer (OPLA office). For example, "USPS priority mail."

(method of service, for example overnight courier, hand-delivery, first class mail)

Sign your name here

(signature)

Write today's date here

(date)