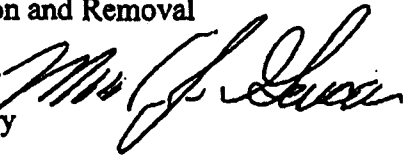


*Office of the Assistant Secretary*U.S. Department of Homeland Security  
425 I Street, NW  
Washington, DC 20536**U.S. Immigration  
and Customs  
Enforcement****FEB 9 2004**

**MEMORANDUM FOR:** Anthony Tangeman  
Deputy Executive Associate Commissioner  
Office of Detention and Removal

**FROM:** Michael J. Garcia   
Assistant Secretary

**SUBJECT:** Detention Policy Where an Immigration Judge has Granted  
Asylum and ICE has Appealed

This memorandum reiterates the U.S. Immigration and Customs Enforcement (ICE) policy where the immigration court has granted asylum (or other protection relief, such as withholding of removal or protection under the Convention Against Torture) and ICE has entered an appeal of the decision which is pending before the Board of Immigration Appeals.

In general, it is ICE policy to favor release of aliens who have been granted protection relief by an immigration judge, absent exceptional concerns such as national security issues or danger to the community and absent any requirement under law to detain.

For cases where a bond has been required but not posted, the bond should be reviewed following an immigration judge's grant of asylum so that an alien can be released in accordance with this ICE policy. Arriving aliens should be considered for parole.

In all cases, the Field Office Director must approve a decision to keep an alien granted protection relief in custody pending appeal, in consultation with the Chief Counsel. This review cannot be delegated beyond the Field Office Director or anyone acting in that capacity.

If you have any questions regarding this memorandum, please contact your local Chief Counsel.

cc: Victor Cerda  
Acting Principal Legal Advisor