



## Credible Fear Determinations

### Determinations by USCIS

If the asylum officer finds that the alien has a credible fear of persecution or torture, the alien is placed in INA § 240 removal proceedings before an immigration judge through the issuance of a Notice to Appear (NTA). 8 C.F.R. § 208.30(f).

If the asylum officer finds that the alien does not have a credible fear of persecution or torture, the alien may seek review of the determination by an immigration judge as documented on Form I-869, Record of Negative Credible Fear Finding and Request for Review by Immigration Judge. USCIS will refer the case to EOIR using Form I-863, Notice of Referral to Immigration Judge. 8 C.F.R. § 208.30(g).

### Review and Reconsideration

- If the immigration judge affirms the negative credible fear finding, the ER order becomes final.
- USCIS may, in its own discretion, reconsider a negative credible fear determination that has been affirmed by an immigration judge. If ERO is informed of USCIS's intent to reconsider, it will coordinate with USCIS on whether to delay execution of the ER order as a matter of discretion.
- If the immigration judge finds that a credible fear has been established, the ER order is vacated, and DHS may initiate INA § 240 removal proceedings through the filing of an NTA.

