



Office of the Chief
Records Officer for the
U.S. Government

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September 13, 2023

Cortney Cortez
Department of Justice
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, VA 22041

Dear Cortney Cortez,

The National Archives and Records Administration (NARA) has received your agency report of the loss of a record of proceeding case file (EOIR case number 215-637-209) that had a 50-year retention period and contained all documents filed during the course of the open proceeding.

On April 1, 2021 the Newark Immigration Court processed a change of venue for this case and shipped the file to Sacramento, California via FedEx. The Newark Immigration Court prepared the shipment with paper slips, which were destroyed after six months, “as part of local routine practice.” The Sacramento Immigration Court never received the file.

On December 16, 2022 and on May 19, 2023, the Sacramento Immigration Court contacted the Newark Immigration Court regarding the location of the file. On May 22, 2023, Newark staff confirmed that the ROP was not in the Newark office and on May 23, 2023 Newark staff confirmed that they no longer had access to the shipment tracking information. However, based on action logs in the Case Access System for EOIR (CASE), the Newark staff is confident that the ROP was shipped to Sacramento. The Newark staff did not input shipping or tracking information into the CASE system. Because EOIR was unable to provide any tracking information and the shipment being over two years old, FedEx was unable to provide any information about the shipment.

EOIR has confirmed that the Newark Immigration Court is no longer using paper slips to process FedEx shipments. Each Newark staff member creating and processing file shipments has an online DOJ FedEx account, and, using these accounts, they create FedEx labels and have access to electronic shipment tracking.

EOIR has also advised court staff that they are required to input tracking information for shipped ROPs in CASE. Accordingly, the Court Administrator in Newark has advised staff that they must 1) enter tracking numbers into CASE, and 2) provide internal receiving units (e.g., the receiving court, the Board of Immigration Appeals, or FOIA) with the package tracking information via email.

The Court Administrator for the Sacramento Immigration Court has initiated the process for reconstructing the ROP. The Sacramento Immigration Court will contact the noncitizen's attorney of record and the Department of Homeland Security's Office of the Principal Legal Advisor to obtain copies of all notices, filings, applications, orders, and other documents associated with EOIR case number 215-637-209. The Court Administrator will then certify via a memorandum to file that, to the best of their knowledge, the record was fully reconstructed.

According to 36 CFR 1230.14, agencies must report any unauthorized disposition of federal records to NARA promptly. EOIR should consider ensuring that all EOIR offices are using appropriate tracking methodologies to report lost or damaged records promptly. Also, all EOIR offices must keep mailing and tracking records for one year per General Records Schedule 5.5, Item 020.

If the file is located, please let us know so we can update our records accordingly. I appreciate your attention to this matter. If you have any questions or wish to discuss further, please contact me at laurence.brewer@nara.gov.

Sincerely,

A handwritten signature in blue ink that reads "Laurence M. Brewer". The signature is written in a cursive style.

LAURENCE BREWER
Chief Records Officer
for the U.S. Government

cc. Jeanette Plante, Department of Justice, Department Records Officer