

Template BIA Notice of Appeal on *C-A-R-R-* and *H-A-A-V-* Pretermissions¹

March 13, 2026

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Practitioner Notes

- This template Board of Immigration Appeals Supplement to Form EOIR-26, Notice of Appeal is intended for use by practitioners who are appealing immigration judge grants of motions to pretermite by the Department of Homeland Security (or *sua sponte*) pursuant to *Matter of C-A-R-R-* and/or *Matter of H-A-A-V-*.
- The cases cited in this template do not constitute an exhaustive search of relevant case law in all jurisdictions. Practitioners should conduct legal research in their jurisdiction based on the facts of their case and ensure that the arguments are viable in their jurisdiction.
- This template uses the term “Respondent” throughout to refer to the noncitizen appealing the case. It is often advisable to actually refer to the respondent by their name in the Notice of Appeal and legal brief, for example, “Mr. Doe,” to humanize them. This template also uses “them” as a generic pronoun. Counsel can decide whether to replace that pronoun with male or female pronouns depending on the gender of the respondent and the immigration judge.
- There are placeholders for some sections of the brief which the practitioner must complete based on the specific facts of their case. The template contains instructions/notes for practitioners in *green, italicized highlighted text* and bracketed placeholders for case-specific facts in *[yellow highlighted text]*. Some arguments and/or information in this template may be inapplicable to a given case.

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Sample Addendum to Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge

LAST NAME, First name A# XXX-XXX-XXX

The Immigration Judge (IJ) made the following errors:

The Department of Homeland Security's (DHS) Motion to Pretermit Was Procedurally Improper and Should Have Been Denied

Portions of this section are likely to be relevant whether the motion to pretermit was pursuant to Matter of C-A-R-R- and/or Matter of H-A-A-V-.

1. *Include this section if DHS's motion to pretermit was untimely or otherwise deprived the respondent of proper notice.* The pretermission motion was untimely. Despite the recent prevalence of pretermission motions, the Immigration Court Practice Manual (ICPM) contains no reference to a "Motion to Pretermit" as a proper motion. The "Other Motions" section of the ICPM at § 4.10, lists 22 categories of pre-decision motions but does not list a motion to pretermit at all. However, even for the 23rd category, "Other Types of Motions," the ICPM states, "The immigration court entertains other types of motions as appropriate to the facts and law of each particular case, provided that the motion is timely, is properly filed, is clearly captioned, and complies with the general motion requirements." ICPM § 4.10(w). Further, ICPM § 2.1(b)(1)(B) specifies that "Where a master calendar hearing is held in a case involving a non-detained, represented respondent, filings must be submitted at least fifteen (15) days in advance of the hearing if requesting a ruling at or prior to the hearing." It was error for the IJ to accept and grant DHS's [oral motion at the hearing/late written motion] where DHS sought, and the IJ granted, a ruling at the hearing. The Respondent was prejudiced by the IJ's failure to require DHS to follow the ICPM's filing deadlines because the Respondent had no notice of the pretermission motion and therefore unable to oppose DHS's pretermission motion in writing.
2. *Include this section if DHS made the motion orally at a master calendar hearing:* The oral pretermission motion was improper. The ICPM explains that the purpose of a master calendar hearing is administrative, including such tasks as to: "set deadlines for filing applications for relief, briefs, motions, pre-hearing statements, exhibits, witness lists, and other documents." ICPM § 4.15(e). The only mention of oral motions at master calendar hearings refers to procedural matters: moving for future telephonic testimony or for interpretation. ICPM § 4.15(o). The ICPM does not contain a single reference to a dispositive oral motion being permissible at a master calendar hearing. In fact, ICPM § 4.10(a) specifies that "A request for a continuance of any hearing should be made by written motion. Oral motions to continue are discouraged." It is irrational that EOIR should require a straightforward request for a continuance to be in writing yet allow a dispositive motion foreclosing a hearing on the merits to be made orally.

3. **Include this section if DHS made the motion orally at an individual hearing:** The oral pretermission motion to pretermit at an individual hearing was improper. ICPM § 3.15 discusses individual hearings and s§ 3.15(b)(1) specifies that all motions must be filed in compliance with ICPM § 2, discussed above. Here DHS waited until the day of the individual hearing to move to pretermit, not giving Respondent any time to respond to the motion before the individual hearing. The Court had set aside time to hold the individual hearing and the Respondent [and Respondent's witnesses] were prepared to testify. It was error for the IJ to grant DHS's eleventh-hour motion, wasting the Court's time, and prejudicing the Respondent.
4. **Include this section if DHS did not provide any reasoning for its pretermission motion:** DHS's motion did not set forth its reasoning. DHS merely stated "move to pretermit." It was reversible error for the IJ to grant DHS's motion, without DHS being held to any evidentiary burden of proving that pretermission was proper, especially when the Respondent had no notice and no ability to oppose DHS's pretermission motion in writing.
5. **Include this section if the IJ pretermitted Respondent's case without a DHS motion:** The IJ in this case pretermitted Respondent's application for asylum without DHS making a motion to pretermit. The IJ is required to be an impartial adjudicator. *See e.g., Islam v. Gonzales*, 469 F.3d 53, 55 (2d Cir. 2006); *Abulashvili v. Att'y Gen of U.S.*, 663 F.3d 197, 207 (3d Cir. 2011); *Elias v. Gonzales*, 490 F.3d 444, 451 (6th Cir. 2007); *Cano-Merida v. INS*, 311 F.3d 960, 964-65 (9th Cir. 2002). By making a motion that cuts off Respondent's right to be heard, the IJ has assumed the role of the prosecutor, or DHS, and is no longer an impartial adjudicator. *See*, Sirce E. Owen, Acting Director, EOIR, Neutrality and Impartiality in Immigration Court Proceedings (June 27, 2025) ("Ethically, Immigration Judges cannot be both impartial adjudicators and advocates for one side or the other, and Judges who would prefer to be policy advocates favoring either aliens or DHS should consider transitioning to alternate career paths."). Also, *see* point # below. By pretermitting the case without a hearing [or even a full evidentiary record/briefing] the IJ failed to uphold their duty of being an impartial adjudicator.
6. **Include this section if Respondent sought a continuance which the IJ denied:** The IJ erred in denying Respondent's motion for a continuance in this case. DHS moved to orally pretermit at the [master/individual] hearing in violation of the ICPM deadlines. Under 8 CFR § 1003.29, the IJ may grant a continuance for good cause shown. Here, Respondent had good cause—DHS ambushed the Respondent with a no-notice dispositive motion. Respondent reasonably requested a short continuance to allow them the opportunity to assess DHS's arguments and adequately respond. The IJ denied Respondent's request for a continuance without explanation/erroneously finding that Respondent should have been prepared to respond on the spot. In denying a continuance, the IJ stripped the Respondent of the opportunity to respond to the pretermission motion and prove that they qualified for relief in violation of INA § 240(b)(4)(B).

The IJ Erred in Pretermining Respondent’s Asylum Application Pursuant to *Matter of C-A-R-R-*, 29 I&N Dec. 13 (BIA 2025)

IJs have been pretermining asylum cases purportedly under Matter of C-A-R-R- if any substantive questions on the I-589 are not completely filled in. This section includes arguments to make for “incomplete application” preterminations.

7. The primary holding of *Matter of C-A-R-R-* is that it was legal error for an IJ to pretermite an asylum application based on the respondent’s failure to include a declaration with their I-589. 29 I&N Dec. at 17. Additionally, *Matter of C-A-R-R-* determined that for an asylum application to be considered complete, every substantive answer on the form must be filled in. *Id.* at 16. However, the word “pretermite” does not appear anywhere in the seven-page *C-A-R-R-* decision. In fact, in *C-A-R-R-*, the respondent submitted three asylum applications which the IJ deemed incomplete and therefore ordered the respondent to *resubmit* a complete application on three occasions. The IJ found the respondent’s fourth I-589 to still be incomplete, and the Board of Immigration Appeals (BIA) *reversed* the IJ’s finding. The fourth I-589, which the BIA deemed to be sufficient to support an asylum claim in *Matter of C-A-R-R-*, [contained substantially less detail than Respondent’s I-589 did in this case.] See *Matter of C-A-R-R-* Appendices, <https://nipnl.org/sites/default/files/2026-03/PA-appendix-combined-redacted.pdf>. It was therefore error for the IJ to pretermite Respondent’s application for asylum based on its purported incompleteness.
8. *If the initial application was filed with USCIS.* [Respondent’s application for asylum was filed on DATE with the United States Citizenship and Immigration Services (USCIS).] Respondent’s claim was referred to immigration court by the Asylum Office with no finding by the Asylum Office of any deficiency in completing the I-589. *If the initial application was filed with EOIR* [Respondent’s application for asylum was filed on DATE with EOIR.] Under 8 CFR § 1208.3(c)(3) (2019),² an asylum application is incomplete if it does not include a response to each of the questions contained in Form I-589, is unsigned, or is unaccompanied by the required materials. Nonetheless, the regulations specify that an incomplete application must be returned to the applicant and “[a]n application returned to the applicant as incomplete shall be resubmitted by the applicant with the additional information if he or she wishes to have the application considered.” Even more significantly, 8 CFR § 1208.3(c)(3) further states, “[i]f the Service has not mailed the incomplete application back to the applicant within 30 days, it shall be deemed complete.” (Emphasis added). Here, Respondent’s application was pending for [#] of days—well beyond the regulatory 30 days, with no indication from

² Several asylum regulations issued under the first Trump administration, including 8 CFR § 1208.3, were enjoined and never went into effect. Since they were published, official websites, including government websites, currently include the text of the enjoined regulations. *Matter of C-A-R-R-* acknowledges this issue and cites the older version of the regulation which is in effect now. See 29 I&N Dec. at 15, n. 1.

DHS or EOIR that the application was incomplete. Neither USCIS nor EOIR returned the application to Respondent as incomplete. Pursuant to the regulations, since more than 30 days have passed since Respondent submitted the application, and it was not returned as incomplete, the application shall be deemed complete, and it was therefore error for the IJ to pretermitt the application by finding it incomplete.

9. In the alternative, if the IJ did not believe the application was sufficiently complete to consider it on the merits, they should have ordered the Respondent to resubmit the application. In *Matter of C-A-R-R-*, the IJ ordered the respondent to resubmit the I-589 four times. 29 I&N Dec. at 13-14. “Furthermore, incomplete applications may be considered waived or abandoned, particularly where an opportunity to cure has been offered.” *Id.* at 15. The IJ never offered an “opportunity to cure” in this case. **Include the correct language that follows based on the facts of your case.** [Instead, the IJ pretermitted the asylum application on DHS’s oral motion at a master calendar hearing/on DHS’s written motion before the individual hearing.] **[Fill in specific facts in your case.]**
10. **Include this paragraph as long as every question on the I-589 requesting a substantive response had a substantive response.** Even assuming arguendo that the IJ was not required to give Respondent any opportunity to revise the I-589, Respondent’s I-589 complied with the ruling in *Matter of C-A-R-R-* which states, a “complete Form I-589 requires a specific substantive answer to every question on the form.” *Id.* at 16. Respondent did provide a “specific substantive answer” to every question, yet the IJ determined **[without any substantive explanation about the alleged deficiency]** that these specific responses were not sufficient. *Matter of C-A-R-R-* does not require the asylum seeker to include every detail of their claim in the I-589; it merely requires “a specific substantive answer (emphasis added).” Indeed, the fourth I-589 which the BIA found sufficient in *Matter of C-A-R-R-* included relatively short answers to the questions. See *Matter of C-A-R-R-* Appendices, <https://nipnlg.org/sites/default/files/2026-03/PA-appendix-combined-redacted.pdf>.
11. **Include this paragraph if there was an attached declaration which included detail beyond the I-589.** The IJ erred in pretermitt Respondent’s asylum claim because the Respondent provided the answers to the questions in the I-589 in an attached declaration rather than on the form itself. *Matter of C-A-R-R-* did not prohibit asylum seekers from including declarations as part of their asylum application; it held that declarations are not required, but not that they are prohibited. **[Here, Respondent included the language “see attached declaration”/ “I will elaborate further in a declaration” as part of their response to questions #s].** The I-589 which the BIA accepted as complete in *Matter of C-A-R-R-* included an attachment rather than responding on the form itself, in response to question C.6. See *Matter of C-A-R-R-* Appendices, <https://nipnlg.org/sites/default/files/2026-03/PA-appendix-combined-redacted.pdf>.
12. **Include this paragraph if the IJ pretermitted based on the Respondent allegedly not fully answering a question, such as not listing all organizations to which they belonged.** The IJ pretermitted Respondent’s asylum application based on their alleged failure to fully respond **[to question #.]** The answer to that question is not material to Respondent’s claim

is based on [describe claim] and thus the answers [to question #] would not have been material and it was error to pretermitt the case based on their failure to complete it.

Practitioners should add substance here about why the omission is not material to the Respondent's claim. For example, not listing membership in a church in the home country may not be relevant to a Respondent's LGBTQ claim based on persecution by police officers.

13. *Include this paragraph if the IJ pretermitted based on the Respondent allegedly not fully answering the question about countries they traveled through, including the exact length of stay in each country.* The IJ pretermitted Respondent's asylum application based on their failure to fully respond to question C.2. [Respondent did answer that question by listing the countries through which they traveled in coming to the United States and the fact that they did not apply for legal status in any of those countries.] To the extent that the answer to that question may affect the IJ's firm resettlement bar analysis, firm resettlement is a factual and legal issue to be determined at a hearing; not including every date on the I-589 is not a reason to pretermitt the asylum application. Even if Respondent had received permanent residence in another country (which they did not), Respondent would still have the right to assert asylum eligibility based on an exception at 8 CFR § 1208.15. Furthermore, even if the IJ were to find that the Respondent was barred from asylum by the firm resettlement bar, the Respondent could still seek withholding of removal under INA §241(b)(3). *Matter of D-X- & Y-Z-*, 25 I&N Dec. 664, 669 (BIA 2012) and CAT protection. It was therefore error for the IJ to pretermitt Respondent's case based on a purportedly incomplete answer to this question.
14. *Include this paragraph if the IJ pretermitted based on the Respondent allegedly not qualifying for asylum, if the Respondent may still be eligible for withholding or CAT. The example here is based on failure to include a protected characteristic, which does not bar a successful CAT application. Other potential examples include if the IJ finds an asylum bar, such as firm resettlement, or a criminal or persecutor bar, the IJ should still determine CAT eligibility.* Furthermore, when the IJ pretermitted Respondent's application for asylum, they simultaneously pretermitted Respondent's applications for withholding of removal under INA § 241(b)(3) and withholding and deferral of removal under the Convention Against Torture (CAT) pursuant to 8 CFR §§ 1208.16-18. The legal standards for those forms of protection are different from the standards for asylum and the IJ did not properly consider Respondent's eligibility for those alternate forms of protection. Even if the IJ was correct and the Respondent did not put forward a viable particular social group, Respondent is not foreclosed from qualifying for CAT protection which has no nexus requirement. 8 CFR § 1208.16(c).
15. If the BIA finds that the IJ correctly applied *Matter of C-A-R-R-* in this case, Respondent preserves for further appeal the argument that *Matter of C-A-R-R-* was wrongly decided.

The IJ Erred in Pretermining Respondent’s Asylum Application Pursuant to *Matter of H-A-A-V-*, 29 I&N Dec. 233 (BIA 2025)

IJs have been pretermining asylum cases under Matter of H-A-A-V- if the IJ finds that there are no “factual issues in dispute” which require a hearing. In other words, IJs have been finding, often before ordering all evidence to be submitted, that the Respondent has failed to state a prima facie case for asylum or related protection. This section includes arguments to make opposing no “factual issues in dispute” preterminations.

16. In *Matter of H-A-A-V-* the BIA held that a full evidentiary hearing is not required where there are “no factual issues in dispute.” 29 I&N Dec. at 234. *Matter of H-A-A-V-* was wrongly decided and should not be applied to Respondent’s case. The BIA’s holding in *H-A-A-V-* violates the INA. INA § 240(b)(4)(B) provides that the noncitizen “shall have a reasonable opportunity to examine the evidence against the [noncitizen], to present evidence on the [noncitizen’s] own behalf, and to cross-examine witnesses presented by the Government.” (emphasis added). Likewise, INA § 240(b)(1) provides that the IJ “shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the [noncitizen] and any witnesses.” (emphasis added). It is apparent from this language that Congress intended removal proceedings to include testimony, and it was error for the IJ to pretermite without allowing Respondent to meet their burden through testimony.
17. Furthermore, INA § 208(b)(1)(B)(ii) provides asylum seekers with the right to testify, specifying that credible testimony alone may be sufficient to meet an asylum seeker’s burden of proof in their case. “The testimony of the applicant may be sufficient to sustain the applicant’s burden without corroboration, but only if the applicant satisfies the trier of fact that the applicant’s testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant is a refugee.” (emphasis added). *Id.* There is no way to square *H-A-A-V-*’s holding with these statutory provisions which expressly allow asylum seekers to meet their burden of proof through testimony.
18. The IJ also violated Respondent’s regulatory right to testify. Building on the asylum seeker’s statutory rights, 8 CFR § 1208.13(a) states that “the “testimony of the applicant, if credible, may be sufficient to sustain the burden of proof without corroboration.” This regulation, like the statute, explicitly allows an asylum seeker to rely on credible *testimony* to sustain their burden of proof for asylum eligibility. It was error for the IJ to apply *H-A-A-V-* and pretermite this case where Respondent never had an opportunity to meet their burden through testimony as contemplated in both the statute and the regulations.
19. The IJ pretermitted Respondent’s case, relying on *H-A-A-V-*, which, in turn cites to 8 § CFR 1240.11(c)(3). That regulation states, “Applications for asylum and withholding of removal so filed will be decided by the immigration judge pursuant to the requirements and standards established in 8 CFR part 1208 of this chapter after an evidentiary hearing to resolve factual issues in dispute. An evidentiary hearing extending beyond issues

related to the basis for a mandatory denial of the application pursuant to § 1208.14 or § 1208.16 of this chapter is not necessary once the immigration judge has determined that such a denial is required.” Thus, while *H-A-A-V-* and the IJ in this case, recite the regulation’s “factual issues in dispute” language several times, that regulatory language only appears in the context of mandatory bars—stating that an evidentiary hearing need not extend *beyond* establishing the basis of a mandatory denial. The use of the word “beyond” clearly implies that some testimony has been taken even before the IJ applies a mandatory bar. In this case, the IJ did not take any testimony, and DHS has not alleged that any mandatory bars apply. It was therefore error for the IJ to determine that no evidentiary hearing was required pursuant to the regulations.

20. *Include this paragraph if the IJ pretermitted the Respondent’s claims at an early stage of proceedings and/or before the call-up date pursuant to the ICPM or any other evidentiary submission deadline ordered by the IJ.* As in the *H-A-A-V-* case itself, the IJ here violated the Respondent’s rights by determining there were no “factual issues in dispute” in this case at an early stage of proceedings. ICPM §2.1 sets forth evidentiary filing deadlines based on whether the respondent is represented or pro se, and on whether the respondent is detained or non-detained. *Fill in details specific to the Respondent in this case.* [Here the Respondent was represented/unrepresented before the IJ and was non-detained. Accordingly, pursuant to ICPM § 2.1(b)(2), the Respondent had until 30 days prior to their individual hearing to submit a complete evidentiary submission.] [Here the Respondent was detained, so pursuant to ICPM § 2.1(b)(2)(C), the IJ was supposed to specify evidentiary filing deadlines. The IJ in this case never set a date by which all evidence was due, so it was error for the IJ to find that there were “no facts in dispute” when Respondent had not yet submitted all evidence, that is alleged all facts, in these proceedings.]
21. The IJ erred by treating DHS’s motion to pretermitt as if it were a motion for summary judgment under rule 56 or a motion to dismiss under rule 12(b)(6) of the Federal Rules of Civil Procedure (FRCP). In a footnote in *H-A-A-V-*, the BIA analogizes the pretermittion of the applicant’s case to federal court motions to dismiss or motions for summary judgment. 29 I&N Dec. at 235, n. 3. However, such motions in federal court occur only after both parties have had the opportunity to fully brief the issues. [In this case, the IJ denied the Respondent’s application on DHS’s oral motion and did not allow Respondent time to submit more evidence/brief the legal issues.]
22. Even assuming *arguendo* that *H-A-A-V-* was not wrongly decided, the decision itself requires the IJ to view “the factual allegations underlying a claim for asylum, withholding of removal, or protection under the CAT. . . in the light most favorable to the respondent” to determine whether the Respondent has made out a prima facie case for relief or protection. 29 I&N Dec. at 238. The IJ did not properly apply that standard to the facts of this case. Specifically . . .
Practitioners must fully explain why it was legal error for the IJ to find that taking all facts in the light most favorable to Respondent, Respondent could not prevail on a claim for asylum, withholding, or CAT. If counsel has written a pre-hearing brief in the case,

counsel should summarize the brief here, explaining how the Respondent meets every element of asylum.

Likewise, practitioners should be sure to include a separate section on the Respondent's eligibility for CAT protection. If the IJ found any potential bars, such as the one year filing deadline, circumvention of lawful pathways bar, firm resettlement, or criminal bars, counsel should address those bars head on. This section should be a substantial part of the notice of appeal, similar to a pre-hearing brief before the immigration court.

If an argument appears foreclosed by BIA precedent, consider citing 8 CFR § 1003.102(j)(1) which explicitly states that a filing is not frivolous even if seemingly foreclosed by existing law if "warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, and is not interposed for any improper purpose."

23. If the BIA finds that the IJ correctly applied *Matter of H-A-V-V-* in this case, Respondent preserves for further appeal the argument that *Matter of H-A-V-V-* was wrongly decided.

The IJ Violated Respondent's Statutory Right to Apply for Asylum

24. The IJ violated Respondent's right to apply for asylum. INA § 208(a)(1) specifies that, "[a]ny [noncitizen] who is physically present in the United States or who arrives in the United States . . . irrespective of such [noncitizen's] status, may apply for asylum in accordance with this section or, where applicable, section [1225(b)] of this title." By preterminating Respondent's case, the IJ denied Respondent an opportunity to present their case in court, thereby depriving Respondent of a forum to seek asylum and violating Respondent's rights under INA § 208(a)(1).

The IJ Violated Respondent's Constitutional Right to Due Process

25. The Fifth Amendment of the U.S. Constitution guarantees immigration court litigants the right to due process in their proceedings. *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953); *Reno v. Flores*, 507 U.S. 292, 306 (1993). This right entails notice to the litigant and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319 (1976). Here, as discussed above, the Respondent did not receive fair notice that DHS intended to pretermite their claim. *If accurate, include* [DHS made an oral motion at the master calendar hearing/submitted a motion on # days' notice.] Further, due process requires that the Respondent have an opportunity to be heard. Here Respondent did not have an opportunity to be heard on their claim for asylum because the IJ preterminated proceedings [before Respondent had submitted all evidence in the case. The IJ also did not allow Respondent the opportunity to respond in writing to DHS's motion to pretermite.]
26. The IJ further violated Respondent's right to due process by failing to develop the record in this case. *See Matter of S-M-J-*, 21 I&N Dec. 722, 729 (BIA 1997) (When left with an

inadequate record, “the statute specifically recognizes that the presentation of evidence is a proper function of an Immigration Judge.”); *Matter of J-F-F-*, 23 I&N Dec. 912, 922 (BIA 2006) (holding that, while an IJ must not take on the role of an advocate, IJs nonetheless have a duty to develop the record, particularly in cases where the noncitizen is not represented by counsel.). Most U.S. courts of appeals have recognized that IJs owe respondents a duty to develop the record. *See Quintero v. Garland*, 998 F.3d 612, 623 (4th Cir. 2021); *Islam v. Gonzales*, 469 F.3d 53, 55 (2d Cir. 2006); *Toure v. Att’y Gen. of U.S.*, 443 F.3d 310, 325 (3d Cir. 2006); *Hasanaj v. Ashcroft*, 385 F.3d 780, 783 (7th Cir. 2004); *Al Khouri v. Ashcroft*, 362 F.3d 461, 464–65 (8th Cir. 2004); *Mekhoukh v. Ashcroft*, 358 F.3d 118, 129–30 & n.14 (1st Cir. 2004); *Jacinto v. INS*, 208 F.3d 725, 734 (9th Cir. 2000). These courts have found that an IJ’s duty to develop the record is grounded in INA § 240(b)(1) and the Due Process Clause of the Fifth Amendment’s requirement that respondents receive a full and fair hearing. Here, where DHS raised the issue that Respondent might not meet their burden to prove asylum, the IJ should have held a hearing and fulfilled the IJ’s obligation to develop the record, rather than rely on an undeveloped record.

Respondent Reserves the Right to Raise Additional Issues in Their Brief

27. Respondent is filing this Notice of Appeal **before receiving the full transcript of proceedings and/or before receiving a transcription of the IJ’s oral decision**. Respondent reserves the right to raise further issues of fact and law after reviewing the entire record of proceeding.