NATIONAL IMMIGRANT JUSTICE CENTER A HEARTLAND ALLIANCE PROGRAM

### Representing Asylum Seekers

Pro Bono Training

Sidley Austin LLP July 13, 2018 www.immigrantjustice.org

### Welcome

Ashley Huebner, Asylum Project National Immigrant Justice Center

### **National Immigrant Justice Center (NIJC)**

- Defends the human rights of immigrants at the individual and systemic level
- Provides legal services to 10,000+ immigrants, refugees, and asylum seekers each year with the support of nearly 1,500 pro bono attorneys
- Challenges laws, policies, and practices that violate human rights through federal litigation
- Advocates for reform with members of Congress and the White House

## Why are *Pro Bono* Attorneys Important for Immigrants?

Non-citizens do not have the right to appointed counsel, even when they are

- Facing deportation
- · Asylum seekers
- · Mentally ill
- Detained
- Children

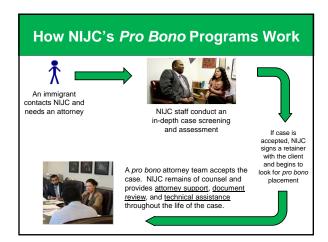


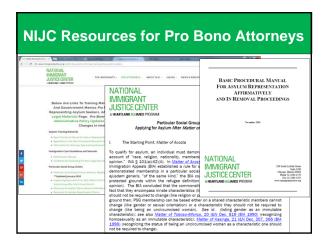
## Local *Pro Bono* Work is Critical for National Immigration Issues



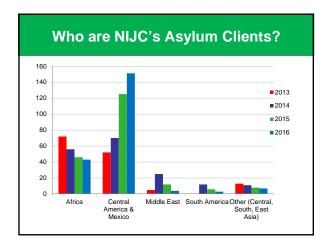
- Emergency response
- Preparing for the next step
- 1 for 1
- · The border is here

# Percent of cases where immigrants obtained relief 2005-2010 74% With representation Without representation

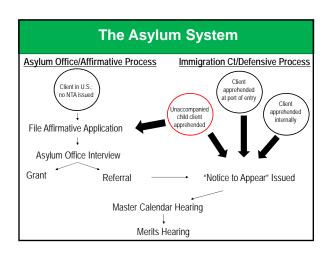




# The Basics of Asylum Law Ashley Huebner







### **Asylum: Definition**

- > An individual is eligible for asylum if she meets the definition of a refugee.
  - Immigration & Nationality Act (INA) § 208(b)(1)(A).
- A refugee is "any person who is outside any country of such person's nationality . . . and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."
  - INA § 101(a)(42)(A)
  - Definition based on international law: UN Protocol Relating to the Status of Refugees, Art I(2)

### **Asylum Legal Sources: INA**

### **Asylum Legal Sources: 8 CFR**



### **Asylum: Elements**

- 1. "Well-Founded Fear"
- 2. of "Persecution"
- 3. Perpetrated by the government or an entity the government cannot/will not control
- 4. "On account of"
- 5. Race
  - Religion
  - Nationality
  - Political Opinion
  - Membership in a Particular Social Group

These elements are SEPARATE!

### "Well-Founded Fear"

Burden of Proof: reasonable possibility

"One in ten" chance of persecution (INS v. Cardoza-Fonseca, 480 U.S. 421 at 431)

Established two ways:

- 1. Past persecution
- 2. Fear of future persecution

Argue both whenever possible!

# Past Persecution Past persecution +all other asylum elements Rebuttable presumption of future persecution Rebutted by changed circumstances safe, reasonable internal relocation

# Subjectively genuine fear objectively reasonable fear (w/all elements) +no safe, reasonable internal relocation Well-founded fear of future persecution

# Past persecution + all asylum elements Severity of Past Persecution Persecution Possibility of Other Serious Harm (No Nexus!) Check the regs and case law (Matter of Chen; Matter of L-S-; Kholyavskiy).

### "Persecution": Look to Case Law

- > Stanojkova v. Holder, 645 F.3d 943 (7th Cir. 2011)
  - Three types
    - 1. Significant physical force against a person's body,
    - 2. the infliction of comparable physical harm without direct application of force . . . , or
    - 3. nonphysical harm of equal gravity.
- Harm constituting persecution can be less for a child than an adult.

See USCIS Guidelines and 7th Circuit law.

Must be considered cumulatively. Nzeve v. Holder, 582 F.3d 678 (7th Cir. 2009).

### The Persecutor Does Not Have to be the State

### **Governmental Entity**

- Police
- Military
- Security Forces
- Presidential Guard
- Mayor
- Village Chief
- · Paramilitary?
- Gangs?

# Entity the Government is Unable OR Unwilling to Control

- Gangs
- Paramilitary
- · Guerrilla Group
- Family Members
- Vigilante Group
- Opposing Political Party
- Others?

### "On Account of a Protected Ground



## Protected Ground

### • Race

- Religion
- Nationality
- Membership in a PSG
- · Political Opinion

### **Burden of Proof for Nexus**

- ➤ Protected ground must be "at least one central reason" for the persecution. Matter of J-B-N- & S-M-, 24 I&N Dec. 208 (BIA 2007)
- Persecutor can still have mixed motives. J-B-N-& S-M-, 24 I&N Dec. at 211; Shaikh v. Holder, 702 F.3d 897 (7th Cir. 2012).
- Circumstantial evidence can be sufficient to establish the persecutor's motives. Martinez-Buendia v. Holder, 616 F.3d 711 (7th Cir. 2010)

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- 1. Race:
  - Broad meaning (Congolese Tutsis)
- 2. Religion
  - (Christian, Atheist)
- 3. Nationality:
  - Not just citizenship; can include ethnic or linguistic group. May overlap with race
- 4. Political Opinion:
  - Actual or Imputed (e.g. child of political activist, man who criticizes government's military policy)
- 5. Membership in a Particular Social Group:
  - One of the most common and most complex bases for asylum

### What is a Particular Social Group?

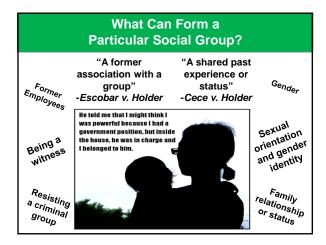
Based on a "common, immutable characteristic" that "members of the group either cannot change, or should not be required to change."

- Matter of Acosta, 19 I&N Dec. 211, 233 (BIA 1985)

	BIA Case Law		Seventh Circuit Case Law
•	Can't be overly broad	•	Breadth is irrelevant
•	Must be considered a group by society	•	No social distinction test
•	"Former" status/past experience is not enough	•	"Former" status/past experience is enough
•	Groups can't be overly diverse	•	Diversity not an issue

See NIJC's Particular Social Group Practice Advisory at http://immigrantjustice.org/useful-documents-attorneys-representing-asylum-seekers

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### **Common Social Groups**

- ➤ Child abuse/domestic violence claims:
  - · Children in the X family/children of X
  - [Nationality] children who lack parental protection
  - [Nationality] women in intimate relationships they are unable to leave
- Gender violence claims:
  - [Nationality] females [women; girls]
  - [Nationality] females in relationships they are unable to leave
  - [Nationality] females who lack parental/male protection
- ➤ Gang-related claims:
  - [Nationality] youth who have opposed [resisted/disrespected] gangs
  - [Nationality] who have witnessed [and reported] gang activities

### Note regarding Matter of A-B-

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Asylum Practice Advisory:
Applying for Asylum After Matter of A-B
Matter of A-B- Changes the Complexion of Claims Involving Non-state Actors,
but Asylum Fundamentals Remain Strong and Intact.

On June 11, 2018, Attorney General Sessions issued a precedential decision in Matter of A-B
MAN Dec. 2016.1AG. 2018). The decision overrules a prior decision, Matter of A-F-C-C-C, 2016.

- Narrow holding
- > Substantial, negative dicta
- > Claims remain very viable, but prepare accordingly
- See NIJC's Practice Advisory and webinar

What Bars Relief?						
	Bars Asylum?	Bars Withholding/Withholding under CAT?	Bars Deferral under CAT?			
One-Year Filing Deadline - INA § 208(a)(2)(B)	Yes	No	No			
Firm Resettlement - INA §208(b)(2)(A)(vi)	Yes	No	No			
Persecutor - INA § 208(b)(2)(A)(i)	Yes	Yes	No			
Terrorism - INA § 208(b)(2)(A)(v)	Yes	Yes	No			
Particularly Serious Crime - INA § 208(b)(2)(A)(ii)	Yes	Yes, but PSC definition for withholding differs from definition for asylum	No			
Conviction of an Aggravated Felony as Defined in INA § 101(a)(43)	Yes – is a PSC	Yes, if the aggregate term of imprisonment sentenced was at least five years it is a PSC. But other crimes may also be found to constitute a PSC, notwithstanding the prison sentence.	No			
Serious Non-Political Crime Outside the U.S INA § 208(b)(2)(A)(iii)	Yes	Yes	No			
Danger to the Security of the U.S INA § 208(b)(2)(A)(iv)	Yes	Yes	No			

### Other Issues That May Impact the Case

- > Certain events in the client's life may make her eligible for other relief
  - Marriage
  - · Victim of a crime
  - Your client should not file applications for any other immigration benefits without consulting you first.
- ➤ Other life changes <u>may</u> compromise eligibility
  - Travel
  - Marriage (in some cases)
  - Crimes (even un-convicted crimes) here or abroad

Contact NIJC immediately if there are changes in your client's life or if you think your client might be eligible for other relief!

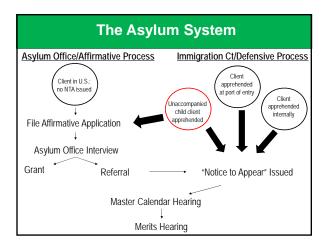
Other Protection-Based Relief (Request All!)								
	Discretion?	Test	Burden of Proof	Petition for Family?	FASFA? Travel Abroad?	Become a Citizen?		
Asylum	Yes	Persecution on account of a protected ground by govt/govt is unable or unwilling to control	Reasonable possibility (≥ 10%)	Yes	Yes	Yes		
W/Holding	No	Same as asylum	More Likely than Not (>50%)	No	No	No		
Relief under the Convention Against Torture	No	Torture by the govt or w/the govt's acquiescence	More Likely than Not (>50%)	No	No	No		

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## Preparing Your Case: Working with Your Client

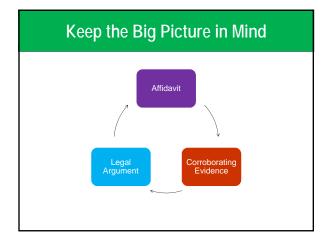
Ashley Huebner, Amanda Crews Slezak,

Asylum Project
National Immigrant Justice Center



# The Department of Homeland Security POLICE The Department of Justice • Executive Office for Immigration Review (EOIR) • Board of Immigration Appeals (BIA) • Immigration & Customs Enforcement (ICE) • Office of Chief Counsel (OCC) • Enforcement & Removal Operations (ERO) U.S. Citizenship & Immigration Services (USCIS) • Asylum Office • Customs & Border Protection (CBP) Office of Refugee Resettlement (ORR): part of HHS; responsible for the care/custody of UICs until they can be reunified with a family member or sponsor.

How Do I Kno	w if My Client is
	Proceedings?
This set a ministra is Agen. This promote date of and.  1.8 Reported of Brailed Institute 1.0 Agen. This promote date of and.  1.8 Reported of Brailed Institute 1.0 Agent 1.0 A	The Notice to Appear (NTA) is the charging document that places an individual in removal proceedings.
(Number, drive, dry and EIP onld) (Area code and phare matrice)  1. You are an article gallon.  3. It You are an affine present in the Chilad State who has not been admitted or parcifed.  3. It You have been admitted to the Chilad State, but are reconscible for the reasons attend below.	removai proceedings.
To be seen and the second of the control of the con	<ul> <li>An individual is only placed into removal proceedings when the NTA is filed with</li> </ul>
On the basis of the foregoing, it is charged that you are object to recovered from the third finance present to the following continuous of two for the Demokration and Wattenbulley Act, as assended, to that you are as all as present if the Estimate State States and the Continuous tellular presents of the States States States the Continuous third present of the Assense States and the States States and the States States States and the States	the immigration court.
This welfack bring leaved after an applice of the found find for the expendent to demonstrated a modified find of parameters.  On the 200000 order on second processor. COCK SEASONO, COCK SEASONO,  Vivi. 45000000000000000000000000000000000000	<ul> <li>Some people have an NTA, but it has not yet been filed with the court, so they are</li> </ul>
for which is it as any form of the second of	not in removal proceedings
Immedi	ate Steps
1) Review NIJC's file	
2) File your appearance if  • Your client is in removal pro  • Complete e-registry and  • Your client has a pending as  • File form G28 with the C	d file form E28 with the court sylum application with USCIS
2) Calendar all deadlines:	
Employment authorization     Court hearings	
One year filing deadline	
<ol> <li>Check the EOIR info line (1 week if your client has an N' the court.</li> </ol>	1-800-898-7180) every other TA, but it has not been filed with
What	to File
Asylum Office (Nebraska Service Center)	Immigration Court
☐ Appearance form: G-28 ☐ TVPRA Instruction Sheet (for unaccompanied	□ Appearance form: E-28 □ Asylum App (L-589) and 1 passport, photo
children only)  ☐ Asylum App (I-589) and 1 passport photo	☐ Asylum App (I-589) and 1 passport photo ☐ Serve one copy of the I589 on DHS
☐ Two copies, plus an one copy for each deriv.	
☐ No filing fee!  One week before the interview, file (with the Chicago Asylum Office)	□ No filing feel Prior to the merits hearing, file:
Chicago Asylum Office)  Legal memo	☑ Brief
Client affidavit/declaration	☐ Client affidavit/declaration
☐ Annotated index ☐ Supporting documentation, including identity	<ul> <li>□ Annotated index</li> <li>□ Supporting documentation, including identity</li> </ul>
documents, expert affidavits, and other corroboration	documents, expert affidavits, and other



### Step 1: Meeting with Your Client

- Be prepared for questions beyond the scope of the case
- Empower your client and promote independence, no matter their age
- Expect inconsistencies and missing information
- > Be aware of the interpreter's role
- Remember: interacting with asylum seekers may require a very different skill set from other client interaction

### **The First Client Meeting**

### DO

- Meet w/o other family/friends (even w/young children)
- Build rapport before getting into the details of the claim
- Explain legal documents in simple, non-legal language before asking for a signature
- Explain roles: who you are, who you are not, and what is expected from your client
- Provide a roadmap for how you'll prepare the case

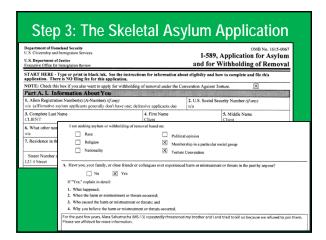
### DON'T

- Forget about confidentiality or assume a client's family/ friends know about her case
- Ask your client to talk about past harm in the first meeting
- Hand your engagement letter or other documents to your client and tell her to sign it
- Expect your client to understand how you differ from others she has encountered in the process
- Start case preparation without explaining who/what/when/why

### Step 2:

### **Obtain Your Client's Immigration History**

- There is no discovery in immigration proceedings.
- ➤ File a USCIS FOIA
  - Expedited processing if in removal proceedings request Track 3 processing
- Client in removal proceedings: review the court file/hearing tapes
- ➤ Unaccompanied child: request the ORR file



## Where and How Do I File the Skeletal Asylum Application?

- ➤ Adults who are not in removal proceedings:
  - USCIS (Nebraska Service Center)
- ➤ Adults who are in removal proceedings
  - Immigration court window or in open court at a hearing
  - Obtain a date-stamped copy for your records (important!)
- > Unaccompanied children
  - USCIS (Nebraska Service Center)
- Review filing procedures and NIJC check list to ensure sufficient copies and format
- Consider filing early to make your client eligible for a work permit. Talk to NIJC about consequences.

### Step 4:

### **Drafting the Affidavit or Declaration**

- Credibility is the most important part of any asylum case
- Can be based on demeanor, candor, inherent plausibility, consistency of statements (made any time/any circumstance)
- The adjudicator's credibility determination will be based primarily on the client's affidavit and testimony, so...

Your client's affidavit is <u>THE MOST IMPORTANT</u> EVIDENCE in your case.

### **Affidavit Interviews with Trauma Survivors**

- ➤ Meet frequently and for limited duration
- Explain why you are asking what information you're asking
- > Ask short questions
- > Be comfortable with silence
- > Provide empowerment through choices
- > Bookend the interview

### **Affidavit Best Practices**

- > The most important document
- > Statement of the client in his/her own voice
- ➤ Balancing detail
- > Chronological
- > Bulk of your prep time will be here: meet early and often
- Cover the 5 Ws + H
- > Consider length

For more tips on drafting an asylum affidavit, see NIJC's 11/18/16 webinar: "Telling Your Client's Story: Affidavit Writing 101,"

at http://immigrantjustice.org/training-webcasts

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National	<b>Immigrant</b>	Justice	Center

### SAMPLES AVAILABLE ON NIJC'S WEBSITE

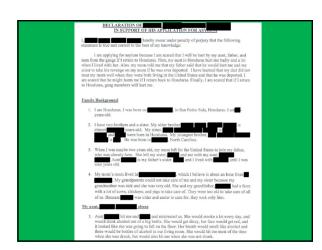
Affidavit of CLIENT
In Support of Her Application for Asylum,
Withholding of Removal and Relief under the Convention Against Torture

 My name is CLIENT. I am a citizen of the Republic of the Congo. I fled to the United States with my children on DATE, because the Congolese military beat us, threatened us and tried to Idli us. The military targeted us because uny former partner, the father of my two daughters, was involved in a suit against the government for the disappearance of his brother during the Disappearance at the Beach in 1999.

### My Background

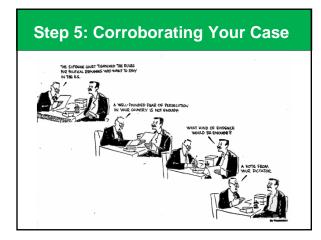
- I was born on DATE, in Brazzaville, the capital of the Republic of the Congo. I had a fairly happy childhood. I am an only child and my parents loved me and were able to give me what I needed, even though we were not rich. I graduated from high school and then attended and graduated from technical college, where I received a degree to become a secretary.
- a secretary.

  3. While my family life was happy at home, the political situation in my country was unstable throughout my childhood. There was always violence between different ethnic groups, and different leaders taking power. Most of the recent violence in the Republic of the Congo has been between the north and the south fighting each other to rule the country. My family was never involved in the violence. We are reserved people who tend to keep to ourselves. Even though my family was not involved in politics and did not cause any violence, we learned like all Congolese citizens, about the government's cormption and the violence that cause to people who opposed or questioned the government. I learned as a child that even though we say our citizens have "rights" to things like freedom of speech and the ability to critisize the government, the reality is that people are frequently hurt or worse if they try to oppose the government.



### Client Affidavit/Declaration Cont.

- ➤ On May 1, 2010, three gang members stopped me after school and threatened me → too much detail
- ➤ I was persecuted because I belong to the group of Salvadoran females in relationships they are unable to leave.
   → too much legalese
- ➤ When I told them I did not want to join their gang they became more menacing...This triggered a melee with the whole group involved in kicking me...Some police belatedly came to ostensibly "investigate" but their investigation was cursory and superficial and no arrests were made. (See Tab P, DOS Human Rights Report, for evidence of government complicity in gang activity.) → not in client's voice



# How Much Corroboration is Necessary?

Corroboration is the second most important part of an asylum case.

### Don't leave it until the end!

- Can be required "unless the applicant does not have the evidence and cannot reasonably obtain the evidence."
- But, "[t]he testimony of the application, if credible, may be sufficient to sustain the burden of proof without corroboration." 8 C.F.R. §1208.13(a)
- Corroborate each asylum element OR show why your client cannot reasonably obtain corroboration.

### **Obtaining Corroboration Everything Matters!** Client-Specific | Past Persecution | Future Persecution Country Conditions Evidence of past incidents that may not State Dept Human Rights Facts: dates, times, Forensic Medical flights, DATE OF ENTRY, IDENTITY Evaluation rise to persecution Amnesty Intl & Physical Evidence Human Rights Watch pictures, police reports, receipts Evaluation situated individuals who have suffered harm UNHCR Refworld Witness Affidavits Medical Reports Expert Affidavits w.unhcr.org/refworld (especially for court Country Conditions Domestic and Foreign Google Earth, Hand Drawn Maps Pictures News Sources

## Practice Pointers for Obtaining Corroborating Evidence

- > Work with your client
- > Establish chain of custody.
  - Ask you client how he/she obtained the document
  - Provide evidence of the document's origin (e.g. copy of the envelope containing the postmark from the country of origin)
- If you doubt the authenticity of a document, leave it out.
- All foreign documents must be translated into English.

# Presenting Corroborating Evidence Index of Document in Support of CLENT: Application for Acyton, Withholding of Reneval, and Boltz under the Conversion Against Tetrure Tal Exhibit Tal Exhibit A Indicate of Mr. CLENT B Letter in support of Mr. CLENT is ayour application from his wife --- dised September 1, 2012, with translation and copy of the newtopen in which the letter arrived S September 1, 2012, with translation and copy of the newtopen in which the letter arrived S September 1, 2012, with translation and copy of the newtopen in which the letter arrived S September 1, 2012, with translation and copy of the newtopen in which the letter arrived S September 1, 2012, with translation and copy of the newtopen in which the letter arrived S September 1, 2012, with translation and copy of the newtopen in which the letter arrived S September 1, 2012, with translation and proposed to the letter arrived S September 1, 2012, with translation and Extended September 1, 2012, with the september 1, 2012, and the september 1, 2012, with the september 1, 2012, and the september 2, 2012, with the september 3, 2012, with the september 3, 2012, with the september 3, 2012

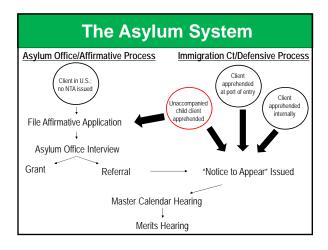
### Step 6: Drafting the Legal Memo or Brief

- > Keep it brief
  - Legal Brief (for cases before EOIR) < 30 pages
  - Legal Memo (for cases before the AO) < 10 pages
- > Follow the elements & don't conflate them.
- ➤ Case law:
  - Supreme Court
  - Federal Circuit Court of Appeals
    - Stick to the Seventh Circuit
  - Board of Immigration Appeals (BIA) precedent decisions
- > Preserve all arguments and claims to relief

For more tips on presenting your evidence and claim, see NIJC's 10/13/16 webinar: "Gathering Evidence and Presenting Claims before EOIR and USCIS," at http://immigrantjustice.org/training-webcasts

Filing Format						
Asylum Office	Immigration Court					
Follow the Immigration	Follow the Immigration Court					
Court Practice Manual	Practice Manual					
Annotate index and	Annotate index and highlight					
highlight important info in	important info in country					
country condition reports	condition reports					
File supporting docs	Court may reject if filing					
directly with the Chicago	requirements are not met					
Asylum Office (two copies	(tabs, two-hole punch,					
+ additional for derivative)	certificate of service, etc.).					
	Copy of all filings must be submitted to OCC					

# Presenting Your Case: the Asylum Office Amanda Crews Slezak



Asylum Office Timing							
Day 1:	Asylum application received by Nebraska Service Center (Clock starts to run).						
Day 10-20:	Receipt and biometrics notice issued						
Day 30-50	Receive interview notice approximately 2 weeks before the interview EXCEPTIONS: UICs; filings before Jan 2018						
1 week before the interview	File supporting documents						
2 weeks after notice	Interview						
~10 days – 6 months later	Decision						

### While Your Case is Pending

- > Develop rapport with your client
- ➤ Maintain contact
- Determine what evidence is important and available and begin to gather it, especially from abroad (remember that you must corroborate everything!)
- Connect your client with a therapist and/or medical doctor for evaluations, if appropriate (NIJC can help!)
- File a work authorization application for your client when s/he is eligible and track the timing for renewals

### **Work Authorization**

- > Can be difficult to obtain depends on the "asylum clock"
- Clock begins to run when the asylum application is filed (received)
  - By USCIS for asylum office cases (affirmative asylum)
  - By the immigration court for court cases (defensive)
- Apply for an Employment Authorization Document (EAD) at 150 days/can be issued at 180
- > Clock stops if the applicant causes a delay
  - · Declines an expedited hearing date
  - Requests a continuance or a change of venue
- > Clock begins to run again when delay has stopped

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### **Asylum Office Advocacy**

### > Before the interview

- Obtain an interpreter and practice with interpreter & client
- Prep client with open-ended questions
- Explain the interview process and clarify the nonadversarial nature of the interview.

### > At the interview

- Attend interview with your client
- · Expect informal setting
- · You must provide an interpreter
- · Take cues from the asylum officer
- · Prepare a closing, but be flexible
- No same-day answer

### **After the Asylum Office Decision**

### ➤ If you win:

- Let NIJC know immediately (30-day deadline for benefits)
- Work Authorization, Social Security Card & Benefits
- Advise client to contact NIJC to apply for derivative family members

### ➤ If you lose, the case is not over:

- Referral to the immigration court for de novo review
- DHS issues Notice to Appear (NTA) placing client in removal proceedings
- Client is now seeking asylum as a defense to removal
- Let NIJC know immediately and consult with NIJC re: timing and next steps

## **Presenting Your Case:** the Immigration Court

Ashley Huebner

### **Master Calendar Hearing**

➤ What it is: a status hearing:

- ➤ Hearing procedures:
  - Arrive Early! YOUR CLIENT MUST APPEAR!
  - E-registry must have been completed ahead of time
  - Plead
  - Schedule the merits hearing
  - Review NIJC's asylum manual for specific steps and talk to NIJC prior to the hearing

### **Immigration Court: Case Timing**

Varies tremendously depending on the type of case and the judge.

Please consult NIJC for a case-specific estimated timeline and to discuss the consequences of accepting or declining an expedited date.

### **Pre-Merits Hearing Issues**

- Know your judge's practice and preferences (contact NIJC)
- ➤ Filing Deadlines:
  - 15-day filing deadline for non-detained cases (unless the IJ tells you otherwise)
  - Review the Court's file
  - Review the Immigration Court Practice Manual
- ➤ Contact ICE Office of Chief Counsel Trial Attorney
  - Not assigned until the month of the merits hearing.
     Contact ICE-OCC to find one which attorney will be handling your case.

### **Pre-Merits Hearing Issues: Fingerprints**

- > It is YOUR responsibility to obtain a fingerprint appointment for clients in court proceedings unless
  - Client is detained or
  - Has previously been fingerprinted for her asylum application
- > Fingerprints taken at the border do not count.
- If no fingerprints NO RELIEF!
  IJ cannot grant relief and could deny the application for abandonment.
- See NIJC's asylum manual and fingerprint FAQ for instructions

### **Opening Statement**

BE BRIEF: no more than about one to three minutes

- > Offer a concise "roadmap"
- > Brief review of the facts
  - Solomon is an Eritrean man
  - Persecuted for leaving the country without permission and evading forced conscription in the military
  - Perceived as a traitor
  - Country condition documentation
  - Letters from family members
- > Brief mention of other major issues

### **Direct Examination of Witnesses**

- ➤ Key issue is credibility
- ➤ Don'ts
  - Don't script answers
  - Don't ask leading questions
  - Don't waste time on irrelevant matters
- ➤ Do's
  - Do follow a chronological story; use declaration as guide
  - Do draw the story out
  - Consider using visual aids, particularly maps
  - Make your record

Preparing Your	Client for Cross
Anticipate questions	

- > Prepare client for leading questions
- > Expect questions from judge
- > Empower client, BUT remind client to maintain demeanor
- > Remember cultural obstacles
- > PRACTICE, PRACTICE, PRATICE!

### **Closing Statement**

- ➤ Take cues from the judge
- ➤ Make the legal argument
- ➤ Make the record
- ➤ Respond to issues

### **After the Merits Hearing**

- ➤ If you win:
  - Let NIJC know immediately (30-day deadline)
  - For Court Cases, Need to get Client's I-94
  - Work Authorization, Social Security Card & Benefits
  - Refer client to NIJC to apply for derivative family members
- ➤ If you lose, the case is not over:
  - Reserve right to appeal
  - Let NIJC know immediately
  - Appeal to BIA

National	<b>Immigrant</b>	Justice	Center
National	IIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII	JUSTICE	Center

### **THANK YOU!**

For more information contact Anna Sears 312-660-1307

ansears@heartlandalliance.org

### Other ways to support NIJC:

- NIJC Annual AppealTwitter: @NIJC
- Facebook: <u>facebook.com/immigrantjustice</u>

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