Doj Immigration Court Practice Manual

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Doj Immigration Court Practice Manual

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required. In order to navigate out of this carousel please use your heading shortcut key to navigate to the next or previous heading. Register a free business account To calculate the overall star rating and percentage breakdown by star, we don’t use a simple average. It also analyzes reviews to verify trustworthiness. These administrative proceedings determine the removability and admissibility of individuals in the United States.http://flexa.cz/docs/flexa/04-crf250x-manual.xml

Because litigants have the right to appeal a decision to federal courts of appeal, different areas of the United States effectively have different immigration laws, notwithstanding Supreme Court review. In addition, federal statutes not facially related to immigration also may play a role in admissibility, including those related to public benefits. Instead, the Department of Homeland Security initiates removal proceeding against a litigant; the immigration judge is employed by EOIR.After the BIA has decided a matter, it may choose to issue a final decision, remand to the immigration judge for further consideration, or refer the matter to the Attorney General.Retrieved 20200221. July 3, 2017. Retrieved February 21, 2020. By using this site, you agree to the Terms of Use and Privacy Policy. Some courts, including Honolulu, Boston, Buffalo, Dallas, Hartford, Las Vegas, Memphis, and New Orleans, have set their own schedules for reopening. Practitioners should check the websites of the courts for updates. On June 11, 2020, EOIR issued a memorandum describing EOIR practices as courts reopen. The memorandum notes that different EOIR facilities may have different rules for entering the facility, but in general, face coverings and social distancing will be required. Visitors who have had COVID19 symptoms, a positive test, or been in contact with someone who has may not enter a facility for two weeks afterward. Deadlines for the following filings that fall between March 1, 2020, and May 15, 2020, have been automatically extended to 90 calendar days from the original due dateApplicants must keep original copies of all documents submitted by email and be prepared to produce them for EOIR upon request. EOIR will also accept electronically reproduced copies of documents containing digital, electronic or “wet” signatures.

A memorandum issued June 11, 2020, regarding the reopening of immigration courts indicates that acceptance of digital and electronic signatures will continue unaltered. A memorandum issued June 11, 2020, indicates that courts will stop accepting electronic filing and deactivate the email addresses 60 days after that court has resumed hearing nondetained cases. Check Appendix R1 of the EOIR Immigration Court Practice Manual to review local court Standing Orders. Starting May 10, 2020, inperson document service was suspended EOIR has not set a date when MPP will be resumed, however when the following three criteria are met, theyEOIR will provide 15 days’ notice of resumption of hearingsCLINIC trains legal representatives who provide high quality and affordable immigration legal services. We develop and sustain a network of nonprofit programs that serve close to 500,000 immigrants every year. We cultivate projects that support and defend vulnerable immigrant populations by We hope you will join us. It only takes a moment to sign up. The page includes exclusive content and tools that will help you as a legal practitioner. Interested in learning more about affiliation. Read through our frequently asked questions to get started. Cash on Delivery available. Specifications Book Details Imprint Createspace Independent Publishing Platform Dimensions Width 15 mm Height 279 mm Length 216 mm Weight 665 gr Read More Have doubts regarding this product. Post your question Safe and Secure Payments. Easy returns. 100% Authentic products. They are requested by IRB decision makers. The database contains a sevenyear archive of English and French RIR. Earlier RIR may be found on the To obtain a copy of an attachment, In most asylum cases, immigration judges issue oral decisions. In many cases they rule from the bench at the conclusion of the evidentiary hearing; sometimes they will reserve decision and reconvene the parties at a later date in order to issue an oral decision.

https://directori.p2pvalue.eu/explore/cbpp-communities/community/datasheet/craftsman-53920-manual

In a telephone interview with the Research Directorate, a general counsel for American Gateways,

an Austinbased NGO that provides immigration legal services to asylum seekers American Gateways n.d., said that the document is a onepage order and that it is a form, often with standard wording ibid. 15 July 2014. In correspondence with the Research Directorate, the chair of the Asylum and Refugee Committee for the American Immigration Lawyers Association AILA also said that most decisions are rendered orally AILA 16 July 2014.Sources indicate that if the decision of the immigration judge is appealed, the hearing is transcribed and the transcript is sent to the parties US 10 June 2013, Sec. 4.10b; Freedom House Detroit 14 July 2014; American Gateways 15 July 2014. In a telephone interview with the Research Directorate, a Senior Attorney with Freedom House Detroit, an NGO that provides comprehensive services to asylum seekers, including legal assistance Freedom House Detroit n.d., said that it takes approximately three to four months for claimants who appeal to receive the transcript of the immigration court proceedings Freedom House Detroit 14 July 2014.The contents of the Record of Proceedings vary from case to case.According to the Chair of the Asylum and Refugee Committee for the AILA, the procedure is to file the request with the EOIR section of the Department of Justice AILA 16 July 2014. The General Counsel for American Gateways said that her NGO has been able to receive CDs of the hearing through FOIA requests American Gateways 15 July 2014. For information about FOIA requests for USCIS documents see Response to Information Request USA103925. Of these, 20,286 80 percent were processed within the 20 day limit, 3,280 13 percent were processed in 2140 days, while the remainder took longer ibid..

The Senior Counsel for HRF said that it is possible to make a FOIA request where the applicant is outside the United States, but clarified that she has no experience in cases where both the asylum applicant and lawyer are outside the US HRF 15 July 2014. Further information about procedures for obtaining written decisions from US immigration courts from abroad could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. For further information about exemptions to FOIA see Response to Information Request USA103925. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request. Note. References Apply today. You will not receive a reply. For enquiries, contact us. It does not constitute legal advice. You should always consult an attorney regarding your matter. Also, an affirmative asylum applicant whose application is denied the Asylum Office can renew their application for asylum, withholding and CAT before the IJ. The asylum application is heard de novo before the IJ. Unlike the asylum interview, removal proceedings are adversarial, with an attorney from Immigration and Customs Enforcement ICE most often fighting against relief for the applicant. This valuable guide is available at. The court date in the Notice to Appear NTA that the applicant first receives will be for an MCH date. On MCH dates, the IJ deals with administrative issues, including scheduling, filing applications, pleadings to the immigration charges, and other issues that arise. Most IJs take cases where the respondents are represented by counsel first, and some IJs hear pro bono cases before cases with private attorneys. It is important to let the IJ know if you are working on the case pro bono and if you are not generally an immigration practitioner.

If the IJ or ICE attorney says anything that you don’t understand, ask them to clarify. Even if they seem irritated at having to slow the proceedings down, you are responsible for doing anything the IJ or ICE attorney directs you to do, and complying with any deadlines they impose, so it’s imperative that you understand what they tell you. Even if the attorney has represented the applicant before the Asylum Office, they must submit an EOIR28 to become the attorney of record for the removal proceedings and must use the court’s “eRegistry” to obtain an EOIR ID number see . The attorney should hand the clerk the completed EOIR28 and let the clerk know which number on the calendar their case is. The attorney should then sit and wait for the case to be called. Most IJs call the case by the last three digits of the respondent’s ANumber or by the attorney’s name. On the record, the IJ will state the nature of the proceedings and ask your client if they understand what is happening. If

an individual appears without counsel, the IJ will usually ask the individual if they would like a continuance in order to seek legal counsel. There generally are not interpreters present for the MCH, and normally the only conversation the IJ will have directly with the respondent is to confirm that he wants the attorney present to represent them. Although the respondent plays a minor role at MCHs, they must be present for all of them unless the IJ explicitly waives their presence or they will be ordered removed in absentia. Generally, MCH dates are adjourned for relatively short period of time, such as three to six weeks. If not, they should say so and ask for a copy. The IJ will often grant continuances so that the attorney can go over the NTA with the client to determine whether the charges are correct—and if there is any question even remotely about their accuracy, then a continuance should be sought.

These charges generally look like this If all of the information is correct, the attorney should admit the charges. If any of the facts are incorrect such as the date of entry into the United States, the attorney should deny the charge and state the correct fact. In most asylum cases, such as in the example above, the charge of removability will simply be that the respondent overstayed their visa, or entered without a lawful visa. If this is true, this charge should be admitted. If the respondent is charged with a criminal ground of removability, the issues are more complicated, and the attorney should thoroughly research the charge prior to the MCH date. Criminal grounds of removability and their consequences are beyond the scope of this manual. In order to be eligible to apply for asylum, the respondent, through the attorney, must admit removability under one of the grounds. The IJ will then identify the client's country of origin as the country of removal. Assuming that the respondent, through counsel, admits removability, the IJ will ask what forms of relief the respondent is seeking. The attorney will then respond, "asylum, withholding of removal, and relief under the Convention against Torture." A grant of VD allows the respondent to depart the United States on his own rather than being deported if he is unsuccessful with his other applications. If the applicant has the ability to travel to a country other than their country of origin if they are unsuccessful with their asylum application, the attorney should request VD.This time period is generally 30 to 45 days, but if you let the IJ know that you are working on the case pro bono and have a busy caseload, the IJ will probably give approximately 45 days. It is generally best to make sure that you have adequate time to fully prepare the asylum application.

If your client is renewing their request for asylum, withholding, and CAT protection, the IJ will likely indicate that any amendments to the I589 asylum application should be tendered to the court at the same time as other pretrail submissions prior to an IH. The old I589 is still part of the record, however, so it is important that the answers in both versions be consistent or that any inconsistencies be fully explained. If the attorney representing the applicant in court prepared the I589 for the Asylum Office, there generally would not be a reason to prepare a new one for court. If an applicant has never had his biometrics captured, or if it has been more than 15 months since they were last taken, the applicant must request a biometrics appointment from USCIS. To so initiate clearances, send USCIS 1 a copy of the first three pages of the I589 that was filed in court, 2 a copy of your EOIR28 and 3 the instruction sheet found here. Please note that you should file the biometrics request at least 34 months before your IH in order to allow for sufficient processing time. If biometrics have not cleared by time an IH is scheduled, the IJ is likely to allow you to present your witnesses and other evidence at the IH and will then adjourn the IH for a final decision after biometrics have cleared. If your case has been adjourned for this very reason, and if biometrics have still not cleared by the time of your rescheduled hearing, you may file a motion to adjourn. Neither the applicant nor their counsel will be informed if biometrics have cleared; only the ICE attorney will have access to that information. It is a good idea to call the ICE attorney a few days prior to your final IH to inquiry whether your client's biometrics are cleared. Unlike at the asylum interview, in immigration court, a professional interpreter is supplied by the Court for the IH. Even if a respondent wants to supply their own interpreter, they cannot.

Although the interpreters used by the immigration courts are professionals, they are not always very good. The attorney should assure the client that interpreters are bound by rules of confidentiality and would lose their jobs if they discussed asylum cases outside of court. The attorney can ask the IJ at the MCH whether the IJ will allow the interpreter to be there as back up on the IH date in case the applicant doesn't understand a question, or whether the IJ's policy is to require the entire hearing to be conducted either in English or in the applicant's native language. The IJ usually asks how much time will be necessary to complete the IH. You should ask for at least three or four hours, and do not hesitate to ask for more time if you really think you need it. You will find that three is the bare minimum for presenting a thorough case. Unfortunately, the IJs are rather hesitant to schedule more than four hours for a hearing. Once the hearing date is set, the MCH is adjourned. At a minimum, all documents for nondetained cases are due no less than 15 days before the IH see the Immigration Court Practice Manual for details. Some IJs require documents specific to the applicant's case as opposed to background, country condition materials to be submitted 30 or 60 days before the IH. Mostly, detained individuals have their IH date set only one or two months in advance. Corroboration can come in the form of oral testimony or written documentation.An IJ may choose to give hearsay evidence less weight than other evidence, but the fact that it is hearsay does not make it inadmissible. Thus, for example, a letter from an applicant's former lover confirming that the two were once harassed by the police would probably be admissible. The attorney should put the witness's full name and reason for testifying, for example, "Jose Doe, respondent's life partner.

" If it's unclear whether or not a particular witness will be able to testify, it is better to list the person on the witness list. There's no rule that every potential witness must testify. However, it is unusual to have such witnesses who were present for the persecution, either because the client knows no one in the area who can be a useful witness or because those who could testify are fearful of doing so. Thus, if the applicant has a samesex partner in the United States, the partner should testify about their relationship.An IJ would not knowingly allow an undocumented immigrant to testify, and merely entering the immigration court would put the undocumented immigrant at grave risk of being placed in removal proceedings. Additionally, you should include the expert's CV and an affidavit of what the expert intends to testify about. Failing to submit these documents in advance of the hearing will likely lead to the ICE attorney arguing against allowing the expert to testify because the attorney could not adequately prepare crossexamination. Expert witnesses, however, should only be called if their testimony adds something new to the case and is not merely a summary of the documentary evidence and affidavits submitted previously. In these situations, it is crucial to find an expert witness. Expert witnesses can also address specific issues which may arise in the case, such as why it would be unreasonable to expect the applicant to relocate internally within the country of origin. Likewise, for some countries with positive media attention about gains made in LGBTQ rights, having an expert explain that, for example, a wellattended gay pride march does not translate into protection from homophobic violence by the police, can be vital to the case. Testimony should focus on the specific elements of the respondent's claim. It is not enough that a witness offer general testimony.

The witness must be able to specifically corroborate elements of the respondent's own testimony. Sometimes, witnesses offered are people who have traveled extensively in your client's country or are active in political or advocacy organizations with a pronounced point of view about that particular country. Such witnesses' credentials as "experts" are often problematic. In the event that a witness's "expertise" is called into question at the hearing, you should be prepared to argue on behalf of their credentials or, if unsuccessful, to go forward effectively if the witness is not accepted. Even if the ICE attorney does not object to a particular witness, the IJ may refuse to allow such testimony on their own motion. Additionally, sometimes, even if allowed to testify, a witness's political bias is so strong and so obvious that their testimony carries little weight with the IJ. This is particularly important if your client has memory problems or a flat, unemotional affect. Similarly, it

may be helpful to have a doctor or other qualified expert testify if your client has been tortured or beaten. If the doctor has knowledge about the applicant's country and can testify as to unavailability of similar HIV treatment options there, they should also be prepared to testify about this. If your client does not have any other way to corroborate the fact that they are LGBTQidentified, having a therapist who the applicant sees regularly testify that he believes that the applicant really is LGBTQidentified based on their therapy sessions can be very helpful. Such testimony can be particularly important if the applicant has a challenging issue in their case, such as a prior oppositesex marriage, which may cause the IJ to question the veracity of the applicant's sexual orientation or gender identity. The attorney must submit a motion before the callup date requesting that the IJ allow telephonic testimony.

The motion can be short but should explain why telephonic testimony is necessary e.g., if the expert resides in Florida for a Pennsylvania case, and the respondent is indigent. On the one hand, this is logical. The IJ does not have the expertise to determine whether or not a foreign government record is authentic, particularly when the record is in a foreign language and may come from a very different culture. The problem, however, is that the regulations place a burden on the asylum applicant who has fled their country of origin to have their documents authenticated by the very government from which they have fled. In practice, this means contacting a family member or friend in the country of origin who is willing to go through several steps of authentication with local government officials leading up to an authentication stamp by the U.S. embassy. Some IJs will allow unauthenticated documents into evidence, and others will not. In any event, it is important for the applicant to try to follow the authentication steps and document the efforts he made to do so if authentication is not possible. 2 Also, always make 100% certain with your client that all documents they are submitting are genuine. In many countries it is easy to buy "official" documents, and your client may not understand how seriously DHS will take the submission of fraudulent documents. Sometimes the ICE attorney will send an official document to forensics to be tested for authenticity. This can include sending the document to the U.S. consulate in the applicant's home country and making inquiries e.g., as to whether the police officer who signed the arrest record actually works in the station that issued the form. If your client submits any foreign documents, it is imperative that you make them understand that they must be 100% sure that the documents are real, and they should check with their friend or family member who obtained them to be sure.

The brief should not be overly long probably no longer than 20 pages, and it should focus on the particular facts of the case as well as any challenging issues, or particular legal issues in the case. You should not spend an inordinate amount of time researching and writing the general standard for asylum, and can probably obtain a sample brief with boilerplate language for the introductory section from the organization that referred the case to you. Use bold headings to make it as easy as possible for the reader to find the relevant sections, and clearly cite to the materials you've submitted. If your client has missed the oneyear filing deadline, lay out a clear argument for which exception they are claiming and how their facts fit that exception. The act of writing the brief will also be very helpful to the attorney in becoming fully familiar with all submitted materials and with crafting arguments to address legal issues in the case. This conversation may be helpful in determining what the ICE attorney sees as the weaknesses in your case. Note that the ICE attorney who appeared at the MCH will probably not be the attorney for the IH. Cases scheduled for IHs are assigned to ICE attorneys ten days in advance. If the case is adjourned after an IH has commenced, the ICE attorney should not change. Since ICE attorneys are generally not assigned to the case until ten days before the IH, if there are issues to address before then, it may be difficult to find an attorney who will return a phone call or review the file. If there is a serious concern which must be addressed, it's a good idea to put it in writing and send a copy to the immigration court, after leaving a couple of unanswered phone messages. Such situations are unlikely, because the ICE attorney will be principally concerned with the issue of credibility and probably will not stipulate to

anything until they have observed the client's testimony and conducted some crossexamination.

However, in such cases, it may be useful to ask the ICE attorney at the close of the IH if they will stipulate to eligibility and not oppose asylum or, failing that, if they will waive appeal if the respondent wins, thus ending the case immediately. If at all possible, you should try to watch a case that's before the same IJ who will be hearing your case so that you get a feel for the IJ's style. Removal proceedings are generally open to the public, though a respondent can request that asylum hearings can be closed. If you want to watch an asylum hearing, the organization which referred your case to you, or other local nonprofits, can probably match you with an upcoming hearing to observe. The request for the adjournment must be made in writing and should be made as soon as possible after the need for the adjournment arises. Often you won't receive a response to the adjournment request until a day or two before the scheduled hearing, so it's safest to continue to prepare as if the adjournment will not be granted although this may negate the purpose of the adjournment request. Therefore, preparing the applicant fully for the hearing is crucial to the outcome of the case. You should try to speak with practitioners in this area to learn as much as possible about the IJ's style before the hearing. Some IJs are very controlling and will take over much of the questioning themselves, others are very passive, and still others may be "yellers" or abusive to litigants. It's best to know what to expect and prepare accordingly. The website contains a somewhat dated listing of statistics of asylum grant rates for IJs around the country.One method for doing this is to begin with the final version of the declaration and go through it, breaking it down into openended questions. Although strict evidentiary rules do not apply, the ICE attorney will object if you ask questions which are too leading in nature.