



UAC ASYLUM NUTS & BOLTS

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APRIL 7, 2017 - JACKSON, MS



SUMMARY

- Overview of asylum procedures for unaccompanied children (UAC)
 - Pleading in Immigration Court
 - Preparing the application
 - Filing the application with USCIS
 - Asylum interview
 - Referral back to Immigration Court & individual hearing



PLEADING & APPEARANCE IN IMMIGRATION COURT



WRITTEN PLEADINGS (REQUIRED BY MEMPHIS EOIR; NOLA LOCAL PRACTICE?)

I. Concedes proper service of the Notice to Appear and agrees to its admission in to the record as Exhibit I.

* * *

8. Admits factual allegations 1 through 4 in the NTA.

* * *

I0. Concedes removability as charged in the NTA; INA §212(a)(6)(A)(i).

I1. Declines to designate a country of removal.

I2. Seeks the opportunity to apply for the following relief from removal: I-589, Application for Asylum, Withholding, and CAT.

I3. Understands that Respondent will have, unless ordered by the Court, 30 days from the date hereof to file all written applications for relief, together with all supporting documents, biometrics and proof of filing applications with CIS.

I4. Understands that the failure to timely file written applications for relief (when required by law or regulation) will result in a determination by the Court that such applications for relief are abandoned by Respondent.

I5. Requests the Court to order an interpreter proficient in the Spanish language for the Individual Calendar Hearing.

MASTER CALENDAR HEARING

- Will mostly track written pleading
- IJ Holt (Memphis) will ask how long you need for any individual hearing, whether you want an expedited date; ask Catholic Charities or other local practitioners about NOLA requirements
- About 5 minutes, but many other families scheduled
- Memphis court will permit telephonic appearance by attorney and client upon motion; other courts may only allow attorney to appear telephonically



PREPARING THE APPLICATION

CHILD-FRIENDLY TECHNIQUES



GETTING THE STORY

- Allison prefers at least 3 interviews, including some without parents present
 - Background/biographical information (1st 4 pages) – family often helps with this
 - 1-2 interviews about substantive grounds: get as much detail as possible, but make sure child is sure
- Written/narrative declaration, as is common for adult applicants?
- Keep questions open-ended – let child tell her own story
- Many children have been through frightening or traumatic experiences

GATHERING INDIVIDUALIZED EVIDENCE

- Establish identity and nationality! (example: birth certificate)
- Witness statements/affidavits
- Establish key facts of case: births, deaths, school attendance, place of residence, key details of claim
- (Sometimes) medical and psychological records or evaluations

COUNTRY CONDITIONS RESOURCES

- Prove child's story consistent with known country conditions
- Also prove nexus between child's fear and cognizable social group, political opinion, etc.
- Suggested resources for published information
- Expert declaration?
- Don't overdocument or include irrelevant information – tailor to child's specific circumstances and what trier of fact really needs to know



FILING THE APPLICATION



STEP 1: IS YOUR CLIENT A UAC?

- Special procedures only apply to UAC children, usually designated by ORR at time of arrival
- In most cases, include a copy of “ORR Verification of Release” letter with asylum application
- UAC designation survives 18th birthday without affirmative termination but ICE reportedly taking steps to de-designate UACs after they turn 18 in some jurisdictions (would get written notice)
 - True even though MS law sets majority at 21

STEP 2: ASSEMBLE THE APPLICATION

- Cover letter brief explaining basis for claim
- USCIS UAC asylum filing instructions (may be given to you by ICE counsel in court)
- Signed G-28 (blue)
- Signed I-589 (white)
- Paginated/tabbed exhibits (remember that the court will receive them from USCIS if case referred)
 - In order of importance/persuasive authority: start with items specific to client, then DOS report, then other background information

STEP 3: SUBMIT THE APPLICATION

- UAC Instruction sheet currently requires original + 2 copies
- After submission & initial processing, application will be forwarded to New Orleans asylum sub-office
- Use Priority Mail or something else with tracking
- Several weeks after filing, will get blue receipt by mail
- Mailing address:
 - USCIS Nebraska Service Center
 - UAC I-589
 - P.O. Box 87589
 - Lincoln, NE 68501

STEP 4: BIOMETRICS

- Criminal & immigration background check based on name & digital fingerprints
- ASC offices in Memphis, Jackson & New Orleans
- Expect mailed appointment notice (to yourself & client) a few weeks after filing

STEP 5: EMPLOYMENT AUTHORIZATION (I-765)

- First one is free for asylum seekers
- Eligible to apply 150 days after filing I-589 with USCIS but beware “the clock”
- Packet includes G-28, I-765, 2 passport photos, proof of pending asylum application (copy of receipt)

STEP 6: CONTINUE OR ADMIN CLOSE REMOVAL PROCEEDINGS

- Motion to Administratively Close for Asylum Processing
- Admin closure previously uncontroversial, ICE may now oppose but IJ likely to grant
- Argue judicial efficiency & reducing burden on applicant (especially if long distance from Court)
- Alternative: lengthy continuance



ASYLUM INTERVIEW



WHAT TO EXPECT AT ASYLUM INTERVIEW

- Location: Memphis or Metairie
- Must provide own interpreter (not a relative) if client isn't fluent in English
- Typically about 1-2 hours per child
- Non-adversarial, in-depth interview by trained asylum officer on details of claim
- Little attorney participation, but usually allowed to ask follow-up questions after main interview
- Attorney allowed to make closing statement
- Expect written decision by mail a few weeks after interview

PREPARING FOR ASYLUM INTERVIEW

- 1 or 2 sessions with client before interview
- Go through story in chronological order
- Watch for inconsistencies with written application
- Can update background information if necessary (new developments, or long passage of time since original filing)



OH NO, YOU'VE BEEN REFERRED!

IMMIGRATION COURT INDIVIDUAL HEARING



REFERRAL PROCESS

- USCIS issues letter of UAC non-eligibility explaining reasons for not immediately granting asylum
- ICE moves to recalendar (assuming proceedings were admin closed)
- Memphis court will directly schedule individual hearing

PREPARING FOR INDIVIDUAL HEARING

- Allison suggests looking at court file (Record of Proceeding) to see exactly what IJ received from USCIS
- At least 2 sessions to prep client's testimony, including practice of cross-examination
- Any additional evidence available/needed, such as witness statements or expert testimony?
- All documents, witness list, "pre-trial statement" due to court 15 days before hearing

INDIVIDUAL HEARING

- About 2-3 hours, especially if witnesses other than applicant
- Bench trial
- Interpreter provided by court
- IJ/ICE will sometimes accept offer of testimony from other witnesses (example: expert or treating doctor if you've already submitted affidavit or records)
- Don't overlook family in the U.S.! May have second-hand knowledge of relevant events
- Be able to explain why missing/expected evidence wasn't reasonably available
- Court allows opening and closing argument
- IJ usually gives decision immediately after hearing

OH NO, YOU LOST!

- Notice of Appeal (EOIR-26) and fee waiver (EOIR-26A) due within 30 days
- “Reserve” right to appeal in court immediately after judge announces decision

OH YAY, YOU WON!

- ICE also has right to reserve appeal
- If not (or after 30 days runs), make INFOPASS appointment for client to obtain ID and work permission
- Might contact Catholic Charities or similar refugee resettlement agency for further assistance – after grant of asylum, asylee = refugee for purposes of benefits, petitioning for family, etc.

Questions?

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