

Angela Feliciano
Legal Aid Society of Milwaukee
Managing Attorney

Asylum in the U.S.



Introduction



- Asylum is a form of humanitarian relief within the immigration system
- It is one of the hardest forms of relief to apply for and receive
 - However, if approved, can lead to legal status as a lawful permanent resident

Overview



- Asylum is a remedy available for those who have fled their home country due to persecution or torture or fear of being persecuted or tortured if they have to return to their home country
 - There are two types of asylum:
 - Affirmative asylum before USCIS
 - Defensive asylum before an Immigration Judge while in removal proceedings
 - Most clients that will come through the MVLC will be in removal proceedings
 - Detained for removal by ICE or CBP at the border

Elements



- There are specific requirements that must be demonstrated:
 - Persecution: that the applicant suffered past persecution or has a well-founded fear of persecution in their home country
 - Protected ground: on account of race, religion, nationality, membership in a particular social group, or political opinion
 - State action: that the persecution was carried out by a government actor or non-governmental actor that the government is unable or unwilling to control

Pitfalls



- Many clients will come in as a victim of a general crime in their home country
 - This does not qualify for asylum
- Many clients will come in as a victim of gang-affiliated crime
 - This does not qualify unless they are specifically targeted as a recruit for the gang
- Yet we have a lot of clients that are coming in seeking asylum; so what do we do?



One-Year Filing Deadline

- Clients have to have their Asylum application, Form I-589, filed within one-year of their arrival to the U.S.
- Very strict deadline; few exceptions to this deadline:
 - Either (1) the existence of changed circumstances which materially affect the applicant's eligibility for asylum or (2) extraordinary circumstances relating to the delay in filing the application within the first year of entry
 - Also have to prove that the application was filed within a reasonable period of time after the changed or extraordinary circumstance

Notice to Appear

- Form I-862
- Most clients will have this paper document that they were given when crossing the border
- Will tell you when they entered the U.S., immigration court hearing, etc.

U.S. Department of Homeland Security

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED] FINS #: [REDACTED] File No: [REDACTED]
DOB: [REDACTED] Event No: [REDACTED]

In the Matter of: [REDACTED] currently residing at:
[REDACTED] (Number, street, city and ZIP code) [REDACTED] (Area code and phone number)

☐ 1. You are an arriving alien.
☒ 2. You are an alien present in the United States who has not been admitted or paroled.
☐ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:
1. You are not a citizen or national of the United States;
2. You are a native of HONDURAS and a citizen of HONDURAS;
3. You arrived in the United States at or near [REDACTED], on or about [REDACTED], [REDACTED];
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:
212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30(f)(2) ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
5701 Executive Center Drive Suite 400 Charlotte NC US 28212

(Complete Address of Immigration Court, including Room Number, if any)

on a date to be set at a time to be set to show why you should not be removed from the United States based on the charge(s) set forth above.
(Date) (Time)

NICHOLAS E. MUNOZ ACTING PATROL AGENT IN CHARGE
(Signature and Title of Issuing Officer)

Date: April 18, 2018 McAllen, Texas
(City and State)

See reverse for important information

Form I-862 (Rev. 08/01/07) N



Procedural Requirements

- Order of Release on Recognizance, Form I-220A
 - This is a form includes requirements and conditions in exchange for being released from detention:
 - Such as scheduling a check-in with ICE within 60 days of being in the U.S.
 - The appointment does not have to be within 60 days, satisfied if scheduled within 60 days
 - Updating any change of address within 30 days of moving
 - With EOIR AND ICE
 - Appearing for any and all immigration court hearings
 - Even if it is a ghost date

Release on Recognizance

- This document again lists the client A Number
 - Identifying number for the client within the immigration system
- An A Number can be used to check the status of the case with the Executive Office of Immigration Review (EOIR)

U.S. Department of Homeland Security

Order of Release on Recognizance

Your A number: [redacted] File No: [redacted]
Date: [redacted]
Event No: [redacted]

Name: [redacted]

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

- ☒ You must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review.
- ☒ You must surrender for removal from the United States if so ordered.
- ☒ You must report in (XXXXXX) (person) to [redacted] (Name and Title of Case Officer) at [redacted] (Location of DHS Office) on [redacted] (Day of each week XXXXXX) at [redacted] (Time).

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

- ☒ You must not change your place of residence without first securing written permission from the immigration officer listed above.
- ☒ You must not violate any local, State, or Federal laws or ordinances.
- ☒ You must assist the Department of Homeland Security in obtaining any necessary travel documents.
- ☒ Other: Employment not Authorized

☐ See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Department of Homeland Security.

[redacted] (Signature of DHS Official)
[redacted] (Printed Name and Title of Official)
Deputy Patrol Agent in Charge

Alien's Acknowledgment of Conditions of Release on Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the [redacted] SPANISH language) and understand the conditions of my release as set forth in this order. I agree to comply with these conditions, the Department of Homeland Security may revoke my release if I fail to comply with these conditions.

[redacted] (Signature of Immigration Officer Serving Order) [redacted] (Date)

Cancellation of Order

I hereby cancel this order of release because: ☐ The alien failed to comply with the conditions of release.
☐ The alien was taken into custody for removal.

[redacted] (Signature of Immigration Officer Cancelling Order) [redacted] (Date)

Form I-220A (Rev. 08/01/07) N

EOIR Case Status

- Using the client's A Number, you can check:
 - Any upcoming court appearances
 - Date
 - Time
 - In-person v. Online
 - Judge
 - Where their case is being decided
 - Chicago is the closest court for VWI residents

An official website of the United States government [Here's how you know](#)

EOIR | Automated Case Information

Court Closures Today June 15, 2022 | Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.

English

Automated Case Information

Welcome to the Automated Case Information system. The following information relates to the primary case only. Please contact your local court if you need bond hearing information.

If you are a recent arrival and were apprehended between ports of entry on or after May 28, 2021, placed in removal proceedings, and enrolled in Alternatives to Detention, please see the [Family Group Legal](#)

Enter your A-Number

A-Number **Required* [What's an A-Number?](#)

SUBMIT

Case information from this automated resource is provided for convenience only. Documents the immigration court or Board of Immigration Appeals issue to you or your representative are the only official determinations related to your case.

If you have a hearing scheduled in Immigration Court, the hearing information should be here. It will tell you the time and date of your hearing, what court the hearing is in, and the judge's name.

Your name should appear here.

Your A number should be here.

Automated Case Information

Name: A-Number:

Next Hearing Information

Your upcoming MASTER hearing is on **January 10th at 9:30 AM**

JUDGE
BOX
COURT ADDRESS
JFK FEDERAL BLDG., ROOM 320
BOSTON, MA 02203

Case Appeal Information

If you have filed an appeal, information about its status should appear here.

Decision and Motion Information

If a decision has been made in your case, details should appear here.

Court Contact Information

If you have a hearing scheduled in Immigration Court, this area will give you the address and phone number of the court where your hearing is scheduled.

Change of Address

- EOIR-33
- Has to be completed within 30 days of moving
 - Send to EOIR and ICE
- Same form if need change of venue
 - Requires a motion for change of venue
- Each family member must complete form

U.S. Department of Justice

Executive Office for Immigration Review

Change of Address/Contact Information Form Immigration Court

Instructions: To complete this form, fill out all blanks below, including proof of service, which certifies that you will provide a copy of this form to the Department of Homeland Security (DHS). After filling in the blanks and signing both the declaration and proof of service, you must submit the form electronically, in person, or by mail. If submitting electronically, file in Respondent Portal at <https://respondentaccess.eoir.justice.gov>. Attorneys and fully accredited representatives submitting this form electronically must file in Case Portal at <https://portal.eoir.justice.gov>. If submitting by mail, follow the mailing instructions on Page 2. You must submit a separate copy of this form for each individual who has a case pending in immigration court and whom the change of information affects.

You must file this form with the immigration court within five working days of the change to your contact information, or your receipt of a charging document (e.g., a Notice to Appear) with incorrect contact information. The immigration court will send all official correspondence (e.g., notices, decisions) to the address you provide. The immigration court will only make any change(s) to your contact information in EOIR's records upon receipt of this form; the immigration court will not change your contact information based on different information on pleadings, motions, or other communications with the court.

If you fail to appear at any hearing before an immigration judge when notice of that hearing or other official correspondence was served on you or sent to the address you provided, DHS may take you into custody. In addition, the immigration court may conduct your hearing in your absence and enter an order of removal, deportation, or exclusion against you. If the court enters such an order, you may be ineligible for certain forms of relief from removal under the Immigration and Nationality Act as follows:

- If you are in *removal* proceedings: You will be subject to an order of removal for a period of ten years after the date of entry of the final order. You may also become ineligible for voluntary departure, cancellation of removal, and adjustment of status or change of status.
- If you are in *deportation* proceedings: You will be subject to an order of deportation for a period of five years after the date of the entry of the final order. You may also become ineligible for voluntary departure, suspension of deportation or voluntary departure, and adjustment of status or change of status.
- If you are in *exclusion* proceedings: Your application for admission to the United States may be considered withdrawn.

Name – Last, First, Middle, Suffix (if applicable):	A-Number:
---	-----------

My FORMER address and phone number were:
"in care of" other person (if any)
Number; Street; Apartment (if any)
City, State, and ZIP code; Country (if other than U.S.)
Phone Number (include country code if other than U.S.)
Email Address

My CURRENT address and phone number are:
"in care of" other person (if any)
Number; Street; Apartment (if any)
City, State, and ZIP code; Country (if other than U.S.)
Phone Number (include country code if other than U.S.)
Email Address

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I am the person named above associated with the A-Number listed above, and that the information contained in this form is true and correct to the best of my knowledge.

SIGN HERE ➡	X	_____ Signature	_____ Date
--------------------	---	--------------------	---------------

PROOF OF SERVICE



I 80 EAD Clock

- Asylum applicants may apply for employment authorization after their asylum application has been pending for 150 days
 - Form I-765
- The applicant, along with any derivative family member, may apply for employment authorization/social security card



Other Benefits

- The applicant will receive a letter indicating that an asylum application is pending
 - DMV for a license while they await upcoming court dates
 - Only valid till their first court date indicated on EOIR website



QUESTIONS