

IMMIGRATION **JUSTICE** CAMPAIGN



Roadblocks to Refuge

Latest Developments in Barriers to Seeking Asylum

American Immigration Council Speakers

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www.immigrationjustice.us

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Fighting together for a fair day in court.

Only 14% of detained immigrants have an attorney. We are mobilizing attorneys nationwide to stand alongside immigrants in court.

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Agenda

- Updates for asylum seekers:
 - At the border
 - WH Memo of April 29
 - In immigration court
 - In immigration detention
 - Restrictions on release from detention
- What you can do to help

What Are Asylum Seekers Fleeing?

- Serious violence targeting them
 - Torture
 - Death threats
 - Kidnapping
 - Rape
 - Unlawful imprisonment
- Because of their:
 - Race
 - Religion
 - Nationality
 - Membership in a particular social group
- OR
- Political opinion

Asylum Seekers at the Border



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State of Play at the Border

- Border arrival numbers
 - March 2019: 92,607 apprehensions (highest in a decade)
 - 53,077 family units
 - 8,095 unaccompanied children
- Different processes applied after apprehension
 - Some placed in expedited removal and detained
 - Some placed in removal proceedings and released
 - Some subjected to Remain in Mexico

Remain in Mexico

Requires asylum seekers to wait in Mexico for their U.S. immigration court hearings

- Nearly 2000 people returned to Mexico so far
- Locations:
 - San Diego
 - Calexico
 - El Paso

Challenges with Remain in Mexico

- Migrant safety
- Limited access to counsel
- Logistics
 - Hearing scheduling and notices
 - Transportation to courthouses
- Legally questionable
- Increases demand for smugglers

Changes Coming for Asylum?

New White House memo (4/29) on upcoming regs

- Credible fear hearings go to asylum-only proceedings
- All asylum applications completed within 6 months
- New fees on asylum applications and work permits
- Bar asylum applicants who crossed between the ports of entry from getting a work permit until they win asylum
- Border Patrol may conduct asylum screenings

Seeking Asylum in Immigration Court



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Immigration Court Updates

- Increased use of video conferencing for merits hearings
 - “No Dark Courtrooms”
 - Immigration Adjudication Centers
 - Currently 17 judges at 2 centers; more are planned
- Remote interpreters
 - In some courts, for all languages but Spanish, interpreters appear by phone

Immigration Court Updates

- Backlog: currently more than 900,000 cases
 - Highly ramped-up enforcement pushing more and more people into removal proceedings
 - Abandonment of prosecutorial discretion
 - Forcing cases forward
- Case scheduling problems
 - Rescheduling with little/no notice

Immigration Court Updates

- Issues with hiring of new Immigration Judges
 - Out of most recent 31, 19 lack immigration law experience. 11 are from ICE. 1 from immigration bar.
 - Politicized hiring process
- Case completion quotas for Immigration Judges

Immigration Detention



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Detention of Asylum Seekers

- DHS detains many asylum seekers
- **How long:** anywhere from days to years
- **Where:** all over the country
 - DHS-run facilities
 - Private prison companies
 - State/local jails
- **Representation rates very low - about 14%**

Increases in Detention

- Detention at all-time high
 - Currently, more than 50,000 detained per day
 - Thousands more than Congress budgeted for
 - ICE seeking \$\$ for 54,000 beds/day
- ICE seeking more detention facilities
 - One example: Aurora, CO: new 432-bed facility recently opened for at least a year (in addition to existing facility with 1,100 beds)

Matter of M-S-, 27 I&N Dec. 509 (AG Apr. 16, 2019)

- Eliminates bond hearings for asylum seekers:
 - who entered between ports of entry AND
 - DHS has found to have a valid basis for asylum (“credible fear”)

Matter of M-S-

- Issued 2 weeks before gov't obligated to provide bond hearings promptly & with DP protections (*Padilla v. ICE, nat'l class action*)
- Effective date of decision delayed for 90 days (until July 15), but some immigration judges are applying now it anyway

Attorneys Handling Bond Cases

- Tell *Padilla* class counsel about any immigration judges prematurely applying *Matter of M-S-*
- Represent *Padilla* class members who are currently eligible for bond
- Stay tuned for developments and resources about the *Padilla* case!

How You Can Help

- Immigration Detention
 - Isolation
 - Hostile jurisdictions
 - Few attorneys



Our Model

Partner with legal service providers to identify cases for referral



Provide volunteers robust training & mentorship



We share cases with our national network of volunteers

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PRO BONO OPPORTUNITIES

How You Can Help

- Immigration Justice Campaign works in:
 - Denver, CO
 - Youngstown, OH
 - Elizabeth, NJ
 - Georgia and Louisiana
 - Dilley, TX

Training and Mentorship

- Online training hub
- Robust mentorship programs
- In-house technical assistance

Asylum

People fleeing persecution in their home countries may be eligible to apply for asylum in the United States, as well as two related forms of relief from removal: withholding of removal and protection under the Convention Against Torture. Many immigrants in detention apply for these forms of relief but are unrepresented by counsel, seriously impeding their ability to win their cases.

Applicants for asylum must establish that they have suffered persecution in the past in their country of nationality, and/or have a "well-founded" fear of persecution in the future. The persecutor must either be from the government, or someone that government is unwilling or unable to control. One central reason for the persecution must be the applicant's race, religion, nationality, political opinion, or membership in a particular social group. Asylum applicants must generally file for asylum within one year of arrival in the United States.

The asylum process for detainees includes filing an asylum application and detailed documentation and evidence to support the claim with the immigration court. An immigration judge will conduct a hearing to determine if the applicant merits asylum. Asylum hearings generally last several hours and include detailed testimony from the applicant.

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PRACTICE GUIDES

Asylum Eligibility One Pager

Immigration Justice Campaign

This one-pager highlights the essential elements of asylum eligibility in the U.S. May serve as a useful reference during interviews with detained clients.

SAMPLE FILINGS

Sample Motion for Untimely Filing

Immigration Justice Campaign

A sample motion to use to request that the court accept an untimely filing of evidence. As always, make sure to consult the Immigration Court Practice Manual for formatting and procedural requirements for motions.

SAMPLE FILINGS



GUIDED LEARNING

If you are new to this area, we suggest the following training sequence to learn about representing detained immigrants in their asylum applications.

1. Representing Detained Asylum Seekers: An Overview

A comprehensive overview of asylum law and procedure for detained asylum applicants. The course covers the basics of asylum law, including the five protected grounds for asylum, what constitutes persecution, and the burden of proof in asylum applications. It also covers the related forms of relief withholding of removal and protection under the Convention Against Torture.

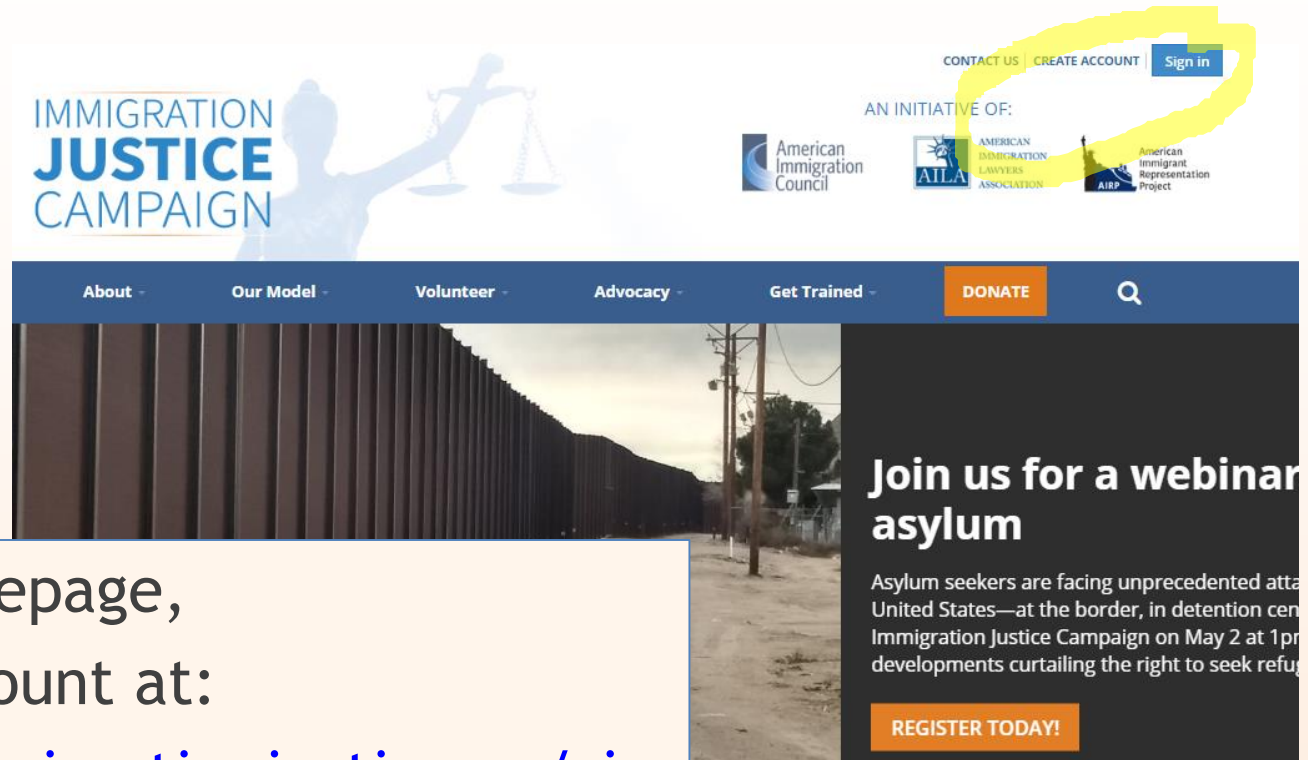
2. Timeline for Detained Asylum Cases:

A week-by-week guide to handling a detained asylum case through the Immigration Justice Campaign.

3. Mock Asylum Hearing:

This video contains a mock asylum hearing for an asylum seeker from Guinea. It includes a direct and cross examination of the asylum seeker, as well as direct and cross examination of two experts.

How to Sign Up!



- From the homepage, create an account at:

<https://www.immigrationjustice.us/signupproxy>

How to Sign Up!

Denver Detention Facility: Bond Cases

The Rocky Mountain Immigrant Advocacy Network is seeking attorneys to represent noncitizens detained at the Denver Contract Detention Facility in bond hearings to secure the individual's release from custody. This opportunity involves meeting with the client, drafting a bond motion, collecting supporting evidence, and arguing the bond motion in immigration court. To learn more about this opportunity type or others, please visit our [Types of Volunteer Opportunities](#) page.

The Support We Provide:

Your work will be supported by a number of innovative resources: (1) a local immigration attorney who can help through immigration court; (2) highly curated training materials as well as sample briefs and exemplars; (3) an in-house legal research team; and (4) an experienced AILA attorney who can help through regularly scheduled weekly



APPLY NOW

HAVE QUESTIONS?

Contact: Sarah Plastino, Esq.
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Network (RMIAN)
splastino@rmian.org

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Guatemalan military seeking asylum

with possible Honduran nationality

Current Case Examples

- Bond
- Asylum

QUESTIONS?

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