

FORMER ASYLUM OFFICER SHARES EXAMPLES OF ASYLUM INTERVIEW DECISIONS

by Allen Schwartz, former USCIS asylum officer

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Allen Schwartz was an asylum officer at the Miami USCIS office for more than 23 years. He retired at the end of September 2019. His experience included interviewing and making decisions on over 10,000 asylum cases. Mr. Schwartz's insights about which cases are more likely to be granted are summarized below. Please refer to our summary of Allen's 11/17/2021 webinar, FORMER ASYLUM OFFICER SHARES HIS EXPERIENCE ON THE ASYLUM INTERVIEW, for additional information, or contact info@rifnyc.org.

The affirmative asylum backlog currently consists of more than 430,000 applications/cases affecting more than 600,000 individuals (applicants and his/her dependents: spouse and/or children). This means that applicants for these cases have never been interviewed or have been interviewed but are still waiting for a decision. Some of these cases have been submitted as far back as 2013.

To address this huge backlog as well as interview the large number of migrants at the US-Mexican border or housed at detention facilities and attempt to keep current with new applicants, USCIS recently announced that they will be hiring 140 new asylum officers across the country. This is a significant increase from their current staff numbers. However, taking into account security clearances and extensive training periods for the new hires, the increase will unfortunately not have an immediate impact on the backlog.

A. CASES MOST LIKELY TO BE GRANTED

The cases most likely to be granted are the ones that:

- Meet all the application criteria, including the one-year filing deadline, unless you have a qualifying exception for extraordinary or changed circumstances (*for example*, you are a student who came on a student visa for undergraduate and/or graduate studies and still maintain your student status; another exception would be if country conditions in your home country have significantly changed and/or deteriorated and you can describe how this would significantly impact your case);
- Demonstrate past harm which could rise to the level of persecution or fear of future persecution based on at least one of the five grounds for asylum (nexus): race, religion, nationality, political opinion or membership in a particular social group. Note that you can

apply for asylum on more than one of the five grounds (but keep your story clear and concise);

- Include a straightforward timeline of events that happened to you;
- Are consistent with country conditions (see note 1) at the time of the application;
- Include only essential written corroborating evidence that is 100% authentic and legitimate (but not an excessive amount). The documents you submit can be investigated for fraud or falsification, which can put your case on hold, as it can be difficult and lengthy to check that they are real and valid (*for example*, photos can be manipulated to add or remove a person, police and/or hospital records can be falsified);
- Clarify any and all significant discrepancies, inconsistencies and contradictions between your written statement, supporting evidence, and oral testimony; these are particularly relevant for dates and places, but could also appear in other areas. Your asylum officer will identify them and will ask you about them.

Overall, the cases most likely to be granted are usually based on a clear and concise written statement and oral testimony. Asylum officers look for a case where events flow logically and make sense; they want to hear direct and relevant answers to the questions they ask (such as “*How...?*” and “*Why...?*”), not unrelated and superfluous details. At the same time, asylum officers are well-trained in cross-cultural matters, and will be able to understand your point of view, as long as you can explain what happened to you in a way that is both truthful and comfortable for you.

Below are a few examples of cases which illustrate these points:

Example 1 (personally relevant country conditions material): A man from Latin America applying for asylum on political grounds. He participated in many anti-government protests, but since a large number of his fellow countrymen also participated in similar protests and have similar stories, it can be hard to prove individual past persecution. This man was able to produce an original newspaper article which included his name as one of the persons who had been shot at, which effectively supported his asylum case.

Example 2 (discrepancies in the story timeline): A man from the former Soviet Union applying for asylum on political grounds. He had a solid case with detailed and compelling explanations, but upon supervisory review after the interview, it was discovered that at the time the applicant described his arrest, imprisonment and torture, he was actually living in Western Europe and not in one of the former Soviet Republics. The case was therefore referred to the immigration court.

Example 3 (clear and concise story even without specific supporting evidence): A woman from a strict/conservative Moslem country applying for asylum as a member of a particular social group targeted for discrimination in her country (she was a feminist and a lesbian). She was not able to produce any specific documents related to this ground (this is a common situation for many LGBTQ cases), but she explained her case in such a compelling manner that it was approved.

B. CASES MOST LIKELY TO BE REFERRED TO COURT OR DENIED

The cases most likely to be referred to court are the ones that:

- Miss the one-year filing deadline (without a qualifying exception);
- Do not meet one of the five grounds for asylum (*for example*, economic chaos or overall crime in your country could be very legitimate motivations to flee, but are not considered to be grounds for asylum);
- Is inconsistent with the country conditions at the time of your application;
- You are or have been involved with terrorist and/or extremist and violent rogue groups;
- You have committed a felony in the United States (most misdemeanors should not be a problem if you bring in appropriate documentation);
- You have citizenship in two different countries (dual citizenship), but have not successfully demonstrated that you would be persecuted in both countries; or you have left your country of origin and resettled in another country (firm resettlement), but have not successfully demonstrated that you cannot obtain legal status in that country;
- Your case is too vague and not specific enough (it looks like it could have been paraphrased from a widely accessible document on the internet, for example);
- Your case is too specific and includes too many details that many people would usually not be able to remember, so it becomes suspicious. Or you can only remember specific dates, but not much else. However, if you are generally good at remembering dates and facts, you can explain it to the asylum officer (“*I am good with dates*” or “*It was so traumatic that I remember everything about these events*”).

Note that if you receive a notice that your case has been referred to immigration court, it will not include a detailed explanation as to why your case was not granted asylum after your interview (see note 2).

Below are a few examples of actual cases illustrating these points:

Example 4 (*permanent relocation in another country*): A citizen of Colombia who has emigrated to and permanently resettled in Panama would need to establish that he/she has not been able to obtain legal status in Panama.

Example 5 (*dual citizenship*): A dual citizen of China and Vietnam would have to establish that he/she has been persecuted or has a fear of persecution in both China and Vietnam for his/her asylum claim to be considered in the United States.

For more details about the asylum interview, the application process and questions about the backlog, please refer to Mr. Schwartz’s webinar of 11/17/2021: [FORMER ASYLUM OFFICER SHARES HIS EXPERIENCE ON THE ASYLUM INTERVIEW.](#)

You can find its video here (<https://www.youtube.com/watch?v=ojYjYr7mwcg&t=3s>)

and its summary here:

(https://static1.squarespace.com/static/55e65ac9e4b028016a8e7b2b/t/62004fe59f49041671e63500/1644187621700/A.+SCHWARTZ+-+11_17_21.pdf)

You can also contact Mr. Schwartz directly at allen.schwartz@visaconsults.com.

NOTES:

1. Please note that asylum officers have ready access to country conditions reports from the US State Department and major international human rights organizations, so there is no need to include these in your supporting documents, unless your name appears in them (which would be very helpful), or they are very unique to your situation.
2. The referral notice is brief and usually not detailed. It might state any or all of the following reasons: a) you did not file your asylum claim within one year of your most recent entry into the United States; b) your testimony was not credible; c) you did not either experience persecution in the past or currently have a well-founded fear of future persecution; d) you are barred from receiving asylum (read about [Bars to Receiving Asylum or Refugee Status](#)).