



## EOIR | IMMIGRATION COURT

Volunteer Attorney Practice Update  
September 2023

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### Matter of J-G-R-, 28 I&N Dec. 733 (BIA August 14, 2023)

Torturous conduct must be committed by a public official who is acting in an official capacity to qualify under the Convention Against Torture, but such conduct committed outside their official capacity is not. The BIA clarified that the test for “in an official capacity” is whether the official was able to engage in the conduct because of his or her government position, or whether the official could have done so without connection to the government.

### Updates from EOIR Liaisons (as of July 26, 2023)

- The court’s backlog has grown to 27,000 pending cases, nearly double from two years ago. The court is still understaffed, so expect delays.
- The court has paused conversion of paper files to eROP due to staffing.
- Changes of venue and consolidation of family cases no longer stops the asylum clock. Currently, the main things that will stop the clock are admin closure and requesting a continuance to find an attorney after filing an I-589. Rejecting the earliest possible hearing no longer stops the clock; better to ask for a later hearing than a continuance.
- All IJs are currently scheduling individual hearings for Fall 2024.
- The Automated Court Information System is showing information about hearings being in person or remote; this refers to where the IJ is. Fort Snelling is continuing to allow respondents and counsel to appear in person or remotely without the need for a motion or notice.