**image001**

**PRO BONO ASYLUM CASES: REVIEWING THE RECORD OF PROCEEDINGS**

**When is it a good idea to review the record of proceedings (ROP)?**

If you have taken a case that is pending before the Immigration Court, it is always a good idea to review the ROP.

If your client filed an affirmative asylum application, but it was **referred to the immigration judge**, the client’s I-589 and any supporting documentation should be in the file. The court’s copy will also contain any markings made by the asylum officer on the I-589.

If a **prior master calendar hearing** was held before you took the case, you’ll want to review any pleadings taken and exhibits marked. In some instances, it may also be important to listen to the hearing recording or request a copy (colloquially known as the “DAR”). Though any orders given by the judge should be recorded in the file, the judge may have alluded to specific concerns with the case that may be helpful in preparation for the final merits hearing. The DAR and ROP can be requested in the same way.

**How do I review the ROP?**

*If your client has an Electronic Record of Proceedings (eROP) file*

Once you have e-filed your notice of appearance (Form EOIR-28 if your file is with the immigration court or Form E-27 if your file is on appeal with the Board of Immigration Appeals), you may download a copy of the eROP as one consolidated PDF file within the individual case details in Case Portal. Your notice of appearance will be automatically served on DHS. You do not need to mail them an additional copy. The requested copy of the consolidated eROP will be available within 24 hours from when the request is submitted.

NOTE: *If the Request Download button is not available, the case ROP is maintained on paper and the existing paper processes will remain in place*. See [this website](https://www.justice.gov/eoir/ecas/attorney-and-ar-FAQs) for more information on eROPs*.*

*If your client has a paper file*

There are two ways to review the hard copy of the record of the proceedings: requesting a copy of the Executive Office of Immigration Review (EOIR) file (limited to 25 pages), or going to the court in person to review the file entire file. (NOTE: you may request copies of your file at that time but will still be limited to 25 pages). For large records, where there was a prior hearing and previous action, we recommend filing a Freedom of Information Act (FOIA) request, so you have the full record. For other cases, in person review should suffice with a FOIA request afterwards if the court’s record contains many documents you need and do not have.

*Requesting a copy of the full EOIR file (FOIA request)*

In order to request a copy of the EOIR file, you must file a Freedom of Information Act (FOIA) Request with the EOIR. There are several agencies that create and keep files on individuals related to immigration matters. Though a FOIA request on form G-639 sent to the U.S. Citizenship and Immigration Services (USCIS) may produce records from many agencies within the Department of Homeland Security, it will not uncover records from the Immigration Court, which is a branch of the EOIR, governed by the Department of Justice. The EOIR outlines detailed instructions on filing FOIA requests with the EOIR on their website: <https://www.justice.gov/eoir/foia-facts>. Statute requires that the EOIR decide whether to comply with a FOIA request within 20 to 30 days, it can take several months to receive the actual documents in response to a FOIA request. Please also see the [FOIA request folder](https://www.dropbox.com/sh/43h4tqbr9wr0t3d/AABW2yM0Qq4BNw7v9_TKfnQJa?dl=0) in our Dropbox.

*Expedited Requests*

FOIA requests with EOIR can be placed on an expedited track by showing the client is currently in removal proceedings. However, EOIR has a high standard to allow for expedited processing. According to the EOIR website:

To have a FOIA request expedited, your request must demonstrate a compelling need such as: (1) imminent threat to the life or physical safety of an individual; (2) an urgency to inform the public concerning actual or alleged Federal Government activity if the request is made by a person primarily engaged in disseminating information; (3) loss of substantial due process rights; or (4) a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.

*Reviewing the ROP at the Immigration Court*

To review the ROP in person or request copies of EOIR’s file (up to 25 pages), you must complete the “Request to Review Case File” form, a copy of which is in [this dropbox folder](https://www.dropbox.com/sh/zs8av2z4yrc3m97/AABfDaCJ__jts82kigeAM9Qka?dl=0). If you are the attorney of record, you will only need to submit that form. If you are not, you will need a signed EOIR-59 authorization from the Respondent, [a sample of which can be found here](https://www.dropbox.com/sh/zs8av2z4yrc3m97/AABfDaCJ__jts82kigeAM9Qka?dl=0). You can mail or hand-deliver the documents to the Immigration Court at 1 Federal Drive, Suite 1850, Fort Snelling, MN 55111. You can also e-mail it to [BLM.Requests@usdoj.gov](mailto:BLM.Requests@usdoj.gov). (**Please Note** that if you hand-deliver the form, it is unlikely that you will be able to review the file on the same day. It is most efficient to email the form and wait to hear that the file is ready for review. If you do not hear back within a week, we suggest sending a follow-up email).

1. “Request to Review Case File” form
   1. The form asks you to indicate whether you would like to review the file, obtain copies and/or obtain a recording of the hearings on record.
   2. The form also asks that you indicate which items you are requesting to review from the file. You can note specific documents or indicate your desire to review the entire file and select items to copy after review.
2. File Access Authority.
   1. If no one has represented the client before the court (regardless of representation before USCIS in affirmative filing), file the EOIR-28 electronically with the court (<https://portal.eoir.justice.gov>), and mail a copy to the Department of Homeland Security, Office of Principal Legal Advisor at 1 Federal Drive, Suite 1800, Fort Snelling, MN 55111
   2. If the client was previously represented by another attorney, you will need to submit a Motion to Substitute Counsel along with a paper copy of your EOIR-28.
   3. If you would like to review the file, but have not yet submitted your motion or entry of appearance, you may be able to provide a [signed authorization](https://www.dropbox.com/sh/zs8av2z4yrc3m97/AABfDaCJ__jts82kigeAM9Qka?dl=0) from the client (EOIR-59) giving you permission to review the file, in lieu of an EOIR-28.

Once the form is received by the court, the Court Staff will contact you, letting you know you can pick up the documents or review the file at your convenience. If you have not heard back, you can follow up through the same e-mail or give the court a call.

*Restrictions & Copies*

You are able to review and make notes of anything in the file. Portable scanners are not allowed nor are taking photos of the file, but the court is authorized to make up to 25 pages from the file.[[1]](#footnote-1) The court also asks that the attorney does not mark on, remove or reorder documents in the file. Take post-it notes with you to mark pages that you would like the court to copy for you. To review the file, they will take you inside the clerk’s office and will let you sit at a desk to review the file.

**How do I request a copy of the recordings of previous hearings?**

If you would like to request a copy of the recordings of previous hearings, you should complete the “Request to Review Case File” form. The court will mail you a CD with recordings of the requested hearings, generally within one to two business days, or they will contact you, letting you know that it is ready for pick up.

1. Immigration Court Practice Manual, Chapter 1.6(c)(iii). [↑](#footnote-ref-1)