

Bond Basics and Strategies for Representing Clients Subject to Prolonged Detention

San Francisco, Live Webcast and www.pli.edu,* April 19, 2017

Why You Should Attend

Each year in the United States, the Department of Homeland Security places over 400,000 in immigration detention. Data shows that release from immigration detention on bond not only allows noncitizens to avoid detention during exceedingly lengthy court proceedings, but also, greatly increases their success rates in ultimately avoiding deportation. Because individuals in Immigration Court proceedings generally only have one chance at a bond hearing and bond is so vital to their cases, lives, and families, it is imperative to have a firm grasp of basic bond issues, such as how to adequately prepare clients for bond hearings. Even attorneys who have had experience handling bond hearings will benefit from a thorough review of the constantly evolving legal determinations of bond eligibility and the legal issues that often arise after bond is denied.

This two-part training is designed to provide immigration attorneys with the basic tools necessary to represent detained clients during bond hearings, and also the knowledge to zealously advocate for clients who may be subject to prolonged detention. This training will also present information about efforts by advocates in Northern California to prepare for heightened enforcement and detention actions by ICE, and how you can help detained immigrants.

What You Will Learn

- Who is Eligible for Bond? – Overview of How to Determine Bond Eligibility Based on the Client's Immigration History and Criminal Background
- How Do I Prepare for a Bond Hearing? – General Mechanics and Tips on Preparing Clients and Witnesses for Custody Hearings
- Prolonged Detention – Discussion of "Joseph Hearings" in Relation to Mandatory Detention, as well as "Rodriguez Hearings"

Who Should Attend

All attorneys interested in or currently assisting immigrant clients who are detained or subject to conditions of custody, including private and pro bono attorneys, public interest and non-profit organization attorneys, would benefit from attending this program. Participants are expected to have a basic knowledge of immigration law but need not have prior experience with representing detained clients.

Program Schedule

9:00

Program Overview and Introductions

Monica Howell, Sara Silvia Taylor, Valerie Anne Zukin

9:15

Who is Eligible for Bond? – Overview of How to Determine Bond Eligibility Based on the Client's Immigration History and Criminal Background

There are three primary detention authorizing statutes for clients in removal proceedings, including: (1) INA §235, which addresses individuals arriving in the U.S. without documents or with fraudulent documents, who are subject to mandatory detention under expedited removal provisions under INA §235(b)(A)(i); (2) INA §236(a), which gives the attorney general discretion to detain certain removable non-citizens; and (3) INA §236(c), which refers to mandatory detention. This panel will provide a brief overview of the foregoing statutes, and also focus on how attorneys can determine whether detained clients are bond eligible.

Christina H. Lee, Adhemir Romero

9:45

How Do I Prepare for a Bond Hearing? – General Mechanics and Tips on Preparing Clients and Witnesses for Custody Hearings

In preparing for a bond hearing, it is important to meet directly with the client beforehand to adequately prepare him or her for testimony. Additionally, supporting documents should be gathered for the detained client, including letters of support, proof of status of family members, and proof that a client will be entering into a rehabilitation program, depending on the circumstances of the case. Aside from working with the client directly, as well as the client's family members, other factors to consider are having pre-trial discussions with the Office of the Chief Counsel, preparing a witness list, and establishing a record for appeal. This part of the panel will review the nuts and bolts of presenting a strong case during custody hearings, and also discuss what the immigration judge wants to know and will weigh as factors in determining whether your client will receive bond. This panel will also discuss considerations in the context of *pro bono* representation.

Lisa Knox, Christina H. Lee, Adhemir Romero

10:45

Networking Break

11:00

Requests for Additional Bond Hearings, "Joseph Hearings" and Bond Hearings for Respondents Facing Prolonged Detention

After an initial bond hearing, § 1003.19(e) limits requests for a subsequent bond hearings to written requests showing that the alien's circumstances have changed materially since the prior bond hearing. According to *Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999), a respondent is always entitled to a hearing to determine whether he or she is subject to mandatory detention.

During a “Joseph Hearing,” where an attorney challenges whether a client is subject to mandatory detention, one can argue that a client was never convicted of a crime, that the client is not removable, or, depending on the circuit, may be able to argue that ICE did not take custody of the client directly from physical criminal custody. Meanwhile, *Rodriguez v. Robbins* 715 F.3d 1127 (9th Cir. 2013) holds that an immigration judge must hold an individualized hearing for individuals detained for six months or longer, and shifts the burden to the government to establish that continued detention is warranted. This panel will provide an overview of when a subsequent bond hearing might be warranted, when the need for *Joseph* or *Rodriguez* hearings might arise, and how to prepare for these hearings.

Lisa Knox, Christina H. Lee

12:00

Adjourn

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