

# Asylum Merits Hearings without an Attorney

November 2022

## What is an Asylum Merits Hearing?

An asylum merits hearing is a court hearing where you explain why you fear going back to your home country. In order to receive an asylum merits hearing, you must have properly applied for asylum using Form I-589, Application for Asylum.

## What Documents Do I Need for an Asylum Merits Hearing?

Providing the judge with reliable evidence will make your case stronger. You may have included documents that support your claim with the Asylum Application (Form I-589). You can continue to collect documents and submit them to the judge and DHS attorney up to two weeks before the hearing (unless the judge told you that you must submit all evidence by a different date). Additionally, if you receive important documents before your hearing, but after the deadline for submitting them has passed, you should bring the documents to the hearing and explain the situation to the judge.

**Remember, any time you send something to the judge, you must also send a copy of it to the DHS attorney (a legal process called “serving”). Make sure your A number and name are listed on any document shared with the judge and DHS attorney.**

Any document that is not in English must be translated and submitted with a certificate of translation. A sample certificate of translation is as follows:

I, \_\_\_\_\_, am competent to translate from \_\_\_\_\_  
*(name of translator)* *(language)*  
language into English and certify that the translation of \_\_\_\_\_  
*(names of documents)*  
is true and accurate to the best of my abilities.

\_\_\_\_\_  
*(signature of translator)*

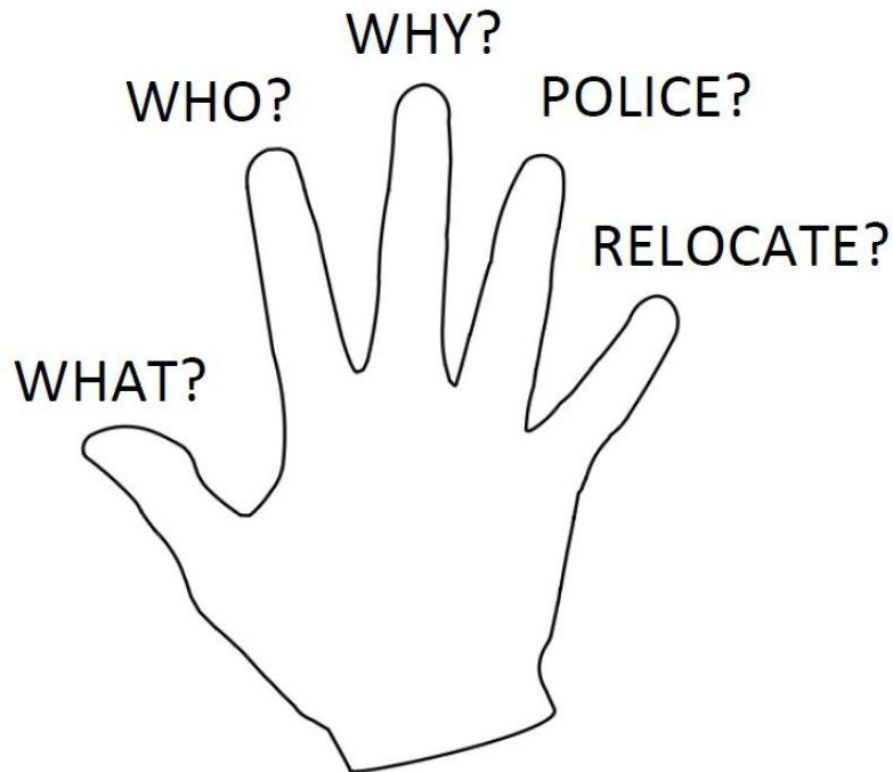
\_\_\_\_\_  
*(typed/printed name of translator)*

\_\_\_\_\_  
*(address of translator)*

\_\_\_\_\_  
*(telephone number of translator)*

## What Do I Need to Prove to Win My Asylum Case at a Merits Hearing?

You should focus on showing the judge why you are afraid of going back to your home country.



**What:** what happened or what do you fear will happen if you are sent back to your country?

**Who:** who harmed you or who do you fear will harm you? Are they part of a group? How do you know them? How do you know past harm was done by them?

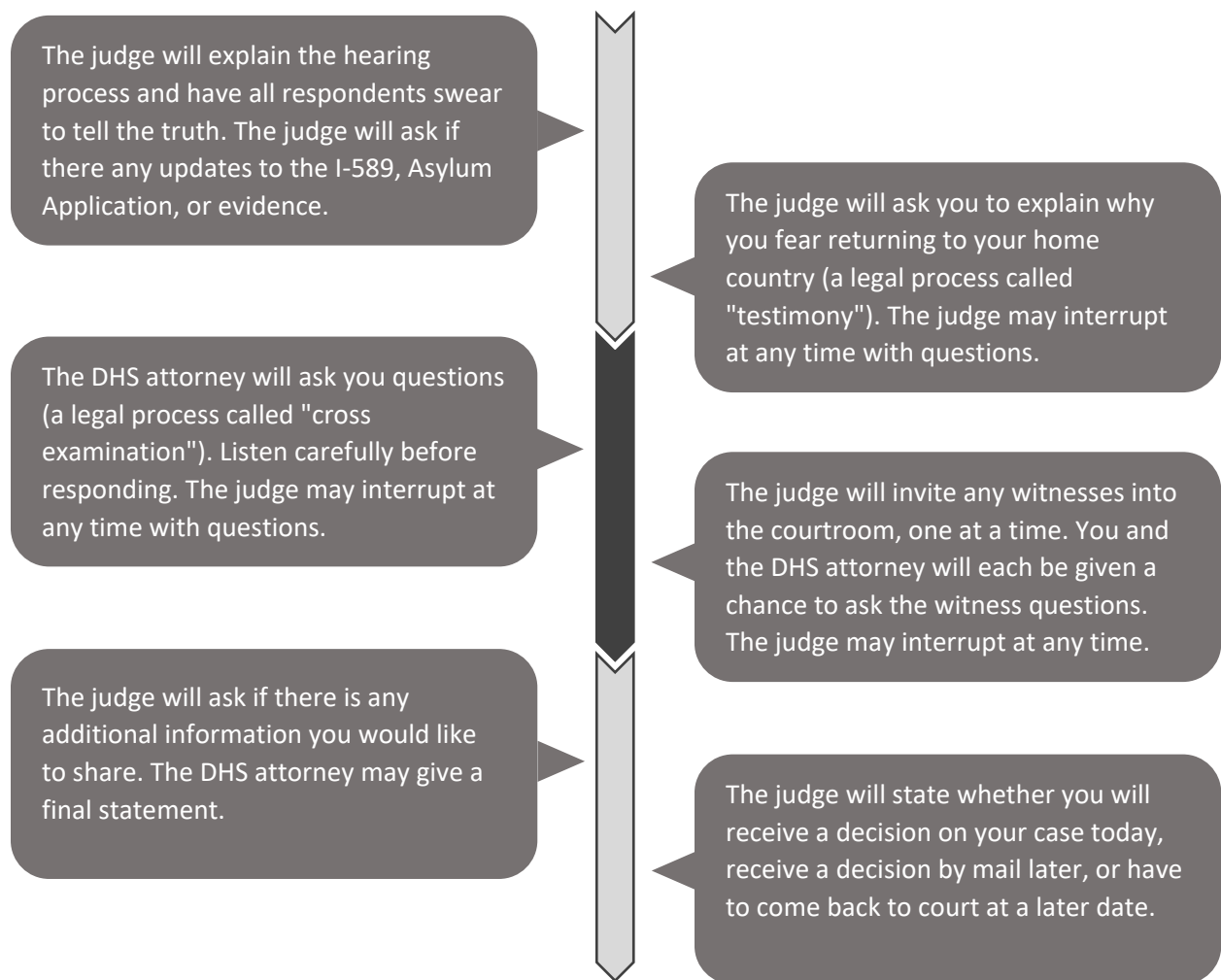
**Why:** why did they specifically harm or threaten you? Why would they harm you instead of another person?

**Police:** did you go to the police or other law enforcement body? If so, what happened? If no, why not?

**Relocate:** is it possible for you to be safe in another part of your country? Why or why not?

**Remember, there is no guarantee you will win your asylum case, even if it is very strong, but using reliable evidence to build the strongest asylum case that you can is the best way to show that you qualify for asylum.**

## What Happens at a Merits Hearing?



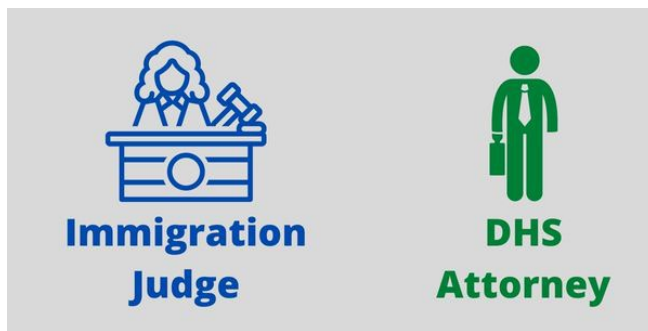
## Who Attends a Merits Hearing?



**Respondents:** everyone named in the case (including minor children). The judge may allow the minor children to wait outside of the courtroom (you can also ask the judge). If there are minor children, it is a good idea to bring someone who is not part of your case to wait with the children.

**Witnesses:** anyone who can come to court and give the judge information about your case. For example, your sister who saw the police hit

you in the street. Witnesses will usually wait outside of the courtroom until the judge calls them in to speak.



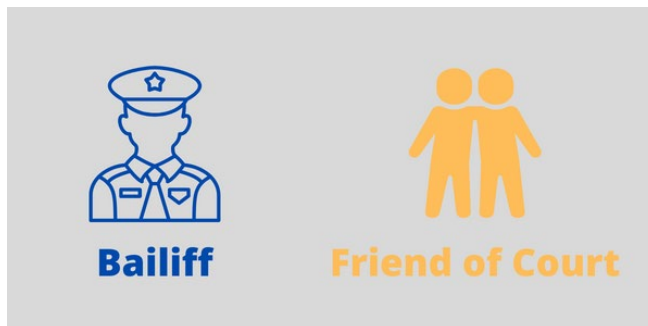
**Immigration Judge:** the person who explains the process and makes the decision of whether you are granted asylum. The judge usually sits at the front of the room elevated behind a desk and wears a robe.

**DHS Attorney:** the person who represents the U.S. government and asks questions to respondents and witnesses and tells the judge why you should not win your case.



**Interpreter:** the person who translates the words said from your language into English and vice versa.

**Clerk:** the person who helps the judge.



**Bailiff:** the person who takes any documents you have and hands them to the judge and also acts as security in the courtroom.

**Friend of Court:** sometimes, an individual may attend your court hearing to help the flow of information in the courtroom. This person is not your attorney and does not work for the government.

## How Do I Tell the Judge What Happened?

At the hearing, the judge will give you time to speak about your experiences (a legal process called “testimony”). Remember the five important concepts (What? Who? Why? Police? Relocate? On page 2) and as you tell your story, remember to:

- Be specific. For example, saying “I think the mayor will find me and torture me like he did to my brother” is much more powerful than “I think I will be in danger.”
- Be honest. It is okay to say “I do not know” or “I do not remember” in response to a question.
- Do not worry if you are nervous or cry in front of the judge. It can be difficult to talk about painful memories. You can also always ask for a break.

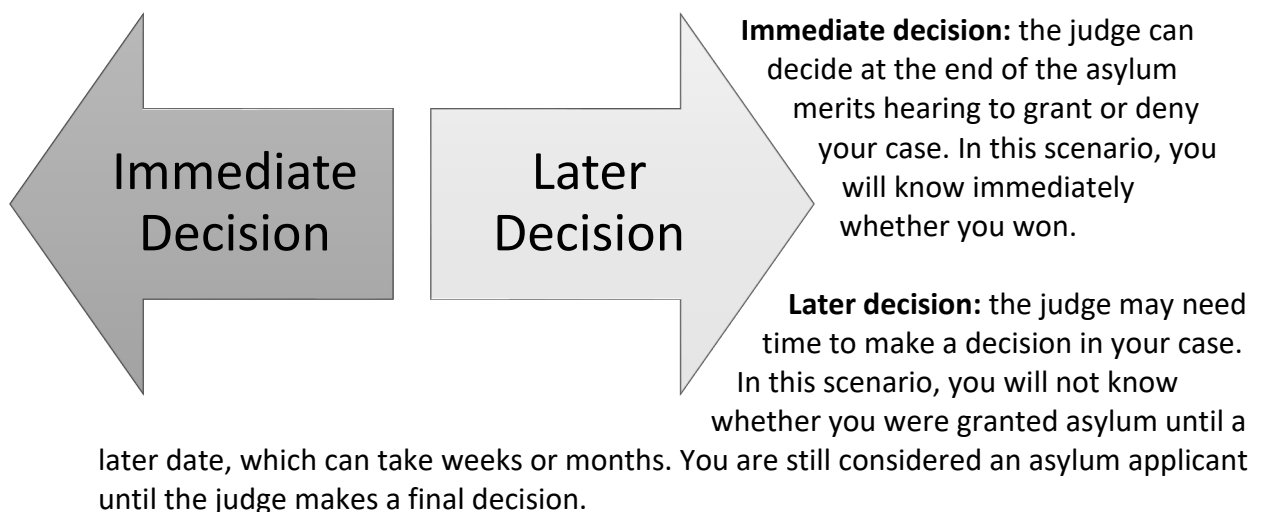
- Refer to the judge as “Your Honor.”
- Listen to the questions asked by the judge and DHS attorney and take a moment to think before responding.
- Answer ONLY the question the judge or DHS attorney is asking. If the judge or DHS attorney want more information, they will ask for more information.
- If you do not understand the question, an interpreter, or something said during the hearing, tell the judge immediately.

## What Do I Bring to a Merits Hearing?

Bring originals and two copies of all evidence supporting your claim, including:

- Documents that prove your identity
  - All passports
  - Birth records and adoption decrees, if applicable
  - Marriage and divorce certificates, if applicable
  - Identification documents from your home country
- Documents that help you prove that you qualify for asylum
  - Photographs
  - Police reports
  - Medical records
  - Letters or statements written by witnesses and family
  - Newspaper articles or reports

## When Will I Know the Judge’s Decision on My Asylum Case?



## What Are the Potential Outcomes of a Merits Hearing?

Judge Grants Asylum	Judge Grants CAT or Withholding	Judge Denies All Forms of Relief
<ul style="list-style-type: none"><li>• If the judge grants your asylum case, you are an asylee!</li><li>• Asylees are entitled to numerous benefits, including applying for a green card one year later, and travel. However, you cannot travel back to your home country.</li><li>• Find a local asylee orientation program to learn about benefits in your area.</li></ul>	<ul style="list-style-type: none"><li>• The judge may deny asylum, but grant CAT (Convention Against Torture) or Withholding of Removal.</li><li>• This means that you get to stay in the U.S., but are not eligible for most benefits of asylum.</li><li>• You cannot apply for a green card based off these statuses and you cannot travel outside of the U.S.</li></ul>	<ul style="list-style-type: none"><li>• If the judge denies your case entirely, you lost your asylum case.</li><li>• The judge will order you removed from the U.S.</li><li>• You have the right to appeal your case. See the next section for more information on appealing your case.</li></ul>

## What If I Do Not Agree with the Judge's Decision?

If you do not agree with the judge's decision, you can appeal the case to the Board of Immigration Appeals (BIA) by filing a Form EOIR-26, Notice of Appeal, **within 30 days** of the judge's decision.

In the Notice (Form EOIR-26), you should explain why you think you should have been granted asylum. You should also include anything that happened in the courtroom that you believe hurt your case. For example, if the interpretation was poor quality and you told the judge several times you did not understand the interpreter, but the judge did not do anything to help the situation.