Asylum Application Requirements

Matter of C-A-R-R-, 29 I&N Dec. 13 (BIA 2025)

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(1) An Immigration Judge is *not* required to consider an Application for Asylum and for Withholding of Removal (Form I-589) on the merits if it is incomplete, and *incomplete applications may be considered waived or abandoned*, particularly where an opportunity to cure has been offered.

(2) Because declarations are not a constituent part of an asylum application, a Form I-589 is *not incomplete*, and an Immigration Judge *may not* deem it abandoned, solely because the respondent did not submit a declaration. *Matter of Interiano-Rosa*, 25 I&N Dec. 264 (BIA 2010), reaffirmed.

In this decision, a pro se asylum applicant made three separate attempts to submit I-589 applications to the immigration court; all were rejected for failure to properly answer each of the questions on the form. On the fourth attempt, the I-589 was finally accepted by the IJ. However, the judge

rejected the supporting declaration because it did not contain a proper certificate of translation or the original Spanish-language version of the document. The IJ further found that a supporting statement was a required part of the I-589 and thus deemed the entire asylum application waived and abandoned.

The BIA reversed on appeal, finding that a supporting statement was not a "constituent part" of the I-589. The BIA noted that it is within the IJ's authority to set deadlines for the acceptance of evidence, and that the IJ was entitled to reject the supporting statement for failure to comply with the requirements of the immigration court practice manual. However, the IJ erred in finding that this meant that the entire I-589 was abandoned and waived. The IJ was entitled to consider the absence of supporting evidence when evaluating the *merits* **of the I-589, however, the IJ erred in finding that this necessarily meant that the chance to apply for relief had been abandoned and waived by the respondent.**

The BIA reiterated that, under 8 CFR § 1208.3(c)(3), a Form I-589 is considered incomplete if it (1) lacks a response to each question on the form, (2) is unsigned, or (3) is missing required materials. The BIA confirmed that "required materials" do *not* **include a declaration. For regulatory purposes, "a response to each of the questions" means that every question must be answered specifically and responsively, but not necessarily that every space on the form must be filled. In a footnote, the BIA clarified that blank spaces are permissible when it is not necessary to use every line to fully respond to a question. For example, an applicant who has no children may leave blank the sections requesting details about children. Conversely, applicants should use continuation pages where the space provided on the form is insufficient to provide a full response.** *See Form I-589, Supplements A and B* **(Mar. 1, 2023). Notably, the BIA went beyond the regulations to cite**

commentary regarding U.S. Citizenship and Immigration Service's justification for promulgating the I-589 and to stress the importance of the applicant's providing specific, legally relevant details to their claim.

Pointers for Practitioners:

- **The key takeaway from this case is that an I-589 must include a specific, responsive answer to each question on the form. While the BIA noted in a footnote that it may be acceptable to leave certain inapplicable spaces blank (e.g., the question on the form that asks about arrests in the United States), CLINIC advises practitioners to write "not applicable" or "n/a" instead of leaving any space empty. Practitioners should also avoid responding to narrative questions — such as those about harm in the home country — with "please see attached declaration." Instead, the practitioner should provide detailed answers to each question directly on the form. CLINIC will soon publish an annotated I-589 with examples of how questions can be answered in ways that are specific and responsive.**
- **Practitioners should not count on the availability of continuances to correct defective I-589s. Note that while the respondent in *C-A-R-R-* was provided multiple opportunities to correct his I-589, not every IJ will proceed this way. IJs will be under pressure by the Trump administration to move cases along, then it is highly unlikely that multiple opportunities for corrections will be provided.**
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EOIR [PM 25-28](), issued on April 11, 2025. Under this policy, IJs are allowed to pretermit — or summarily dismiss — an asylum application as legally insufficient without a merits hearing, based solely on the I-589 application. EOIR claims that current regulations and BIA case law require a hearing only when there are disputed factual issues. IJs from across the country have already started to dismiss cases on these grounds according to a post from [Catholic Legal Immigration Network]().

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