

REFUGEE AND ASYLUM LAW RESEARCH Judicial and Administrative Decisions

United States Law

1. Judicial Decisions

- Federal case reporters publish judicial decisions related to immigration issues. Consult the *Supreme Court Reporters*, *West's Federal Reporters* and *West's Federal Supplement* online or in print.
- *Federal Immigration Law Reporter* (KF4815 F42) contains selected court cases and administrative agency decisions between 1983-1989.
- *Selected Refugee Cases from Federal Circuit Courts* (1994-97) <http://www1.umn.edu/humanrts/refugee/cases.html>
- Lexis IMMIG;CASES (case law and agency decisions), and IMMIG;COURTS (just immigration-related case law) and Westlaw FIM-CS (1789+)

2. Administrative Decisions

Department of Homeland Security

U.S. Citizenship and Immigration Services (USCIS) <http://www.uscis.gov/portal/site/uscis>

Administrative Decisions issued after July 31, 2000, listed by subject and applicable US Code sections, are shown in an easy-to-read format. Administrative decisions prior to 2000 are accessible on a separate page (<http://www.uscis.gov/uscis-ext-templating/uscis/jsoverride/errFrameset.jsp>).

Department of Justice

The Board of Immigration Appeals (BIA or the Board) <http://www.usdoj.gov/eoir/biainfo.htm>

This is the highest administrative body for interpreting and applying immigration laws. It has jurisdiction to review decisions by immigration judges (IJs) and to interpret immigration statutes and regulations. Decisions by the Board are binding unless modified or overruled by the Attorney General or a Federal court. Decisions of the Board are published as *Interim Decisions* (advance sheets) or bound *Administrative Decisions* (see below).

- *Administrative decisions under immigration and nationality laws.* (KF4812.A23)
This official reporter contains precedent decisions issued by the Board and the Immigration and Naturalization Services (INS) from 1940 to 2000. Internet version (containing cases from 1960 to present) can be found at http://www.usdoj.gov/eoir/vll/intdec/lib_indecitnet.html. Also online on Lexis IMMIG;BIA (1940+) and Westlaw FIM-BIA.
- *Interim decision(s)* (KF4812.A24)
These are the official advance sheets for BIA. The free online version is located at http://www.usdoj.gov/eoir/vll/intdec/lib_intdecnet_vol.html. Cumulative indexes for volumes 1-15 and volumes 16-23 are also available here. Also online on Lexis IMMIG;BIA (1940+) and Westlaw FIM-BIA.
- *Indexed decisions*

These decisions determined by BIA to have value as a general guide to particular areas of the law but have no value in precedent. <http://www.usdoj.gov/eoir/vll/intdec/indexnet.html>.

Office of the Chief Administrative Hearing Officer (OCAHO) <http://www.usdoj.gov/eoir/ocahoinfo.htm>.

This Office has jurisdiction over three types of cases: hiring of unauthorized aliens, immigration-related unfair employment practices, and immigration-related document fraud. OCAHO decisions are available under two separate areas, *Published Decisions* and Decisions covered by the FOIA.

- *Published Decisions* are available on the Web at <http://www.usdoj.gov/eoir/ocahoinfo.htm>. Volumes 1 through 9 are available here. Also in book form, published decisions can be found in a source entitled *Administrative decisions under employer sanctions, unfair immigration-related employment practices and civil penalty fraud laws of the United States*. (KF4829.A552 v.3+, 1992+) *Published Decisions* can be cited and relied upon as precedents in future adjudications. Prior to 1992, the volumes are named *Administrative decisions under employer sanctions, unfair immigration-related employment practices* and are located on third floor (KF4829.A552 v.1-2).
- Decisions covered by the Freedom of Information Act (FOIA) can be found online at <http://www.usdoj.gov/eoir/OcahoMain/OCAHOEFOIADecisions.htm>. These unpublished, non-precedent decisions are available under the heading *OCAHO EFOIA Decisions*.
- Non-Precedent BIA and AAO Decisions available on Lexis IMMIG;BIAAAU and Westlaw FIM-OCAHO

Administrative Appeals Unit (AAU)

This office has jurisdiction over numerous types of decisions listed under [8 CFR § 103.1 \(f\)\(3\)\(iii\)](#).

- Westlaw: FIM-AAU (1989+)

Office of Legal Counsel (OLC) <http://www.usdoj.gov/olc/opinions.htm>

On occasion, the Office drafts legal opinions of the Attorney General for issuance to various agencies of the executive branch, and offices within the Department, including the INS.

Department of Labor

Board of Alien Labor Certification Appeals (BALCA) <http://www.oalj.dol.gov/libina.htm>

BALCA reviews denials of labor certification applications under the U.S. Department of Labor.

- *USDOL/OALJ Reporter* publishes the decisions of the Administrative Review Board from May 1996 to date at <http://www.oalj.dol.gov/Public/ARB/References/Caselists/arbindex.htm>.
- The en banc decisions of the Board of Alien Labor Certification Appeals (BALCA) is found at http://www.oalj.dol.gov/Public/INA/References/Caselists/BALCA_decisions.htm. This case list is limited in scope to *en banc*, and selected panel decisions. DOL has acquired a commercial database that makes available BALCA decisions by case number and by employer.
- *USDOL/OALJ Reporter* also publishes various other immigration-related alien labor certifications and enforcement actions. Visit the OALJ Law Library Immigration Collection at <http://www.oalj.dol.gov/libina.htm> for a list of decisions.
- Lexis IMMIG;BALCA (1987+) and Westlaw FIM-BALCA (1987+)

Office of the General Counsel

This office issues decisions providing guidance to the INS offices.

- Westlaw: FIM-GCO (1991+)

Department of State

Published opinions of the Board of Appellate Review

This set includes from the United States Department of State, Office of Legal Advisor, Published Opinions of the Board of Appellate Review, opinions relating to Immigration and Nationality. This is a work in progress so check back often for new material. Available from the FSU Law Library's home page at <http://www.law.fsu.edu/library/collection/publishedopinions/index.html>

3. Case law and administrative agency decisions, combined

Lexis IMMIG;IMMAGN (combined federal agency decisions) and IMMIG;CASES (case law and agency decisions) and Westlaw FIM-ADMIN (BALCA,BIA, & OCAHO decisions combined)

4. Case Digests and Indexes

- Asylum case law sourcebook: master index and case abstracts for U.S. court decisions (KF4836.A53 M37 1998 and 1994)
This comprehensive guide indexes case abstracts on political asylum as decided by the federal courts since the Refugee Act of 1980 through December 1998.
- *Benders immigration bulletin* (KF4802.B45)
This publication contains summaries of federal decisions as well as administrative agency decisions from BIA, AAU, and BALCA. (1996+)
- *Hein's cumulative index to Interim precedent decisions of the Board of Immigration Appeals.* (KF4812.7.H45)
- *Immigration legislation* (KF4806 1911a)
Part two of this book contains digest of immigration decisions dating from 1893 to 1910.
- *The Refugee Convention: a compendium of Canadian and American cases.* (KDZ564.A65 Z36 1999)
This source offers coverage of Canadian and American case law interpreting the series of elements that must be examined in assessing a claim to Convention refugee status.

International Law

1. 1951 Convention/1967 Protocol Relating to the Status of Refugees

The 1951 Convention relating to the Status of Refugees is the key legal document in defining who is a refugee, their rights and the legal obligations of states.

- *Annotated Refugee Convention: Fifty Years of North American Jurisprudence* KE4472.A54.Z35 2004
This book presents annotated Canadian and U.S. case law interpreting the series of elements needed to assess a claim to the Convention refugee status. Coverage is comprehensive up to December 2002.
- *UNHCR Executive Committee Conclusions* <http://www.unhcr.org/excom/3bb1cb676.html>
Sixty-one member states set international standards on the treatment of refugees. Their Conclusions on a wide range of legal and policy issues related to international protection of refugees are another source for interpreting the Refugee Convention and Protocol.

2. Case Law

Refugee Caselaw (University of Michigan Law School) <http://www.refugeecaselaw.org/>

The site currently collects, indexes, and publishes selected recent court decisions that interpret the legal definition of a "refugee." It presently contains cases from the highest national courts of Australia, Austria, Canada, Germany, New Zealand, Switzerland, the United Kingdom, and

the United States. In the future, the site will expand by jurisdiction (to include the highest national courts of other asylum countries) and topically (to cover adjudication of the rights of refugees).

Gender Asylum Case Law <http://cgrs.uchastings.edu/law/>

Summaries of over 220 cases from 51 countries primarily involve decisions by asylum officers or immigration judges. Organized by country of origin, type of harm, claimed asylum ground, decision level, and other categories.

International Association for Refugee Law Judges

http://www.iarlj.nl/Database/IARLJ_Database_Start.htm

This database contains court decisions in asylum law of many different countries.

RAVE <http://www.jura.uni-duesseldorf.de/rave/e/englhome.asp>

This database includes reports of judgments and decisions from Court of Justice of the European Communities, Court of First Instance, European Court of Human Rights, European Commission of Human Rights, Human Rights Chamber for Bosnia & Herzegovina, International Court of Justice, WTO, GATT). Contains only citations to articles and decisions, not entire text.

Internet Sources

Refugee Law Center <http://www.refugeelawcenter.org/>

The Refugee Law Center is “a non-profit organization devoted to strengthening the human rights of refugees and immigrants through legal representation, research, educational initiatives, and policy development.” Site offers access to court documentation, country condition reports, and other publications. Several initiatives place particular emphasis on women, children, and health.

Sources Consulted:

Cornell Law Library, *Research Sources for Immigration Law at Cornell Law Library*, http://www.lawschool.cornell.edu/lawlibrary/Finding_the_Law/Guides_by_Topic/immigration.html (last updated September 2001)

Regina Germain, *AILA's Asylum Primer*, (2d., American Immigration Lawyers Association 2000)

Georgetown University Law Library, *Researching Immigration and Human Rights on the Internet*, <http://www.ll.georgetown.edu/intl/guides/immigration/> (last updated January 2005)

Wei Luo, *Research Guide to Aliens and the Law*, <http://law.wustl.edu/library/index.asp?id=1353> (last updated January 2001).

Elisa Mason, *Guide to International Refugee Law Resources on the Web*, <http://www.llrx.com/features/refugee.htm> (last updated July 15, 2000)

Elisa Mason, *Annex: Human Rights, Country and Legal Information Resources on the Internet*, http://www.llrx.com/features/rsd_bib.htm (last updated April 1, 2002).