

Michigan High School Mock Trial Tournament



2019-2020 Case High School
Case Materials

FAQ/ERRATA

IN THE MATTER OF QUIN ZION

This document serves to address ongoing questions as raised
in this year's case materials.

Please send us any questions for clarification.
mocktrial@miciviced.org

Welcome to the 2019-2020 Mock Trial Season.
We are glad you are joining us. .



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FAQ

Wait, what? This isn't a traditional civil or criminal case.

Q: What is this?

A: This is not a traditional civil or criminal case. The case falls within the criminal case rotation yet poses specific immigration asylum and deportation administrative processes that although not really criminal, can result in judicial orders affecting whether a person can legally remain in the United States.

*MCCE will seek to provide a few opportunities to interact with an immigration specialist to ask all your questions. Currently, the Mock Trial Clinic scheduled for Monday, December 9, 2019 will include a presentation from a practicing immigration attorney regarding a general overview of immigration law and various processes. Please register your team to participate:

<https://www.miciviced.org/programs/mock-trial/clinic/>

We also hope to video the session and make it available online.

What are the names of the sides?

Q: Who is the plaintiff and defense?

A: The case materials for 2019-2020 differ from our convention in that the parties are not a plaintiff/prosecution or defendant. For this year, they are the “**Respondent**” and “**ICE**” or the “**government**”. Team rosters, score sheets, etc. should reflect this.

Judge or Jury Trial

Q: Is this a judge or jury trial?

A: These types of immigration cases are heard by a **judge**. As a result, please consider this a **bench trial**. That means that your opening statements and closing arguments should be geared toward the Judge as the trier-in-fact and not a jury. Please keep in mind, however, that although this is a bench trial, you will be scored by a panel of judges, likely in the jury box. We recommend that you craft your presentations accordingly.

Page Number Formatting

Q: I noticed there were a few lines without text that had a number in the pleadings. What do I do?

A: Leave it! Use the numbers as presented in the document.

Date on Quin Zion's Asylum Application

Q: There is no date next to the signature. What should we do?

A: Quin Zion submitted his Application for Asylum on **January 30, 2020**. This replaces page 68 of your materials. Please insert this page into your materials.

Part D. Your Signature			
<p>I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it are all true and correct. Title 18, United States Code, Section 1546(a), provides in part: Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement or which fails to contain any reasonable basis in law or fact - shall be fined in accordance with this title or imprisoned for up to 25 years. I authorize the release of any information from my immigration record that U.S. Citizenship and Immigration Services (USCIS) needs to determine eligibility for the benefit I am seeking.</p>	<p style="font-size: small;">Staple your photograph here or the photograph of the family member to be included on the extra copy of the application submitted for that person.</p>		
<p>WARNING: Applicants who are in the United States unlawfully are subject to removal if their asylum or withholding claims are not granted by an asylum officer or an immigration judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is later withdrawn. Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act. You may not avoid a frivolous finding simply because someone advised you to provide false information in your asylum application. If filing with USCIS, unexcused failure to appear for an appointment to provide biometrics (such as fingerprints) and your biographical information within the time allowed may result in an asylum officer dismissing your asylum application or referring it to an immigration judge. Failure without good cause to provide DHS with biometrics or other biographical information while in removal proceedings may result in your application being found abandoned by the immigration judge. See sections 208(d)(5)(A) and 208(d)(6) of the INA and 8 CFR sections 208.10, 1208.10, 208.20, 1003.47(d) and 1208.20.</p>			
<p>Print your complete name. Quin Zion</p>	<p>Write your name in your native alphabet.</p>		
<p>Did your spouse, parent, or child(ren) assist you in completing this application? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "Yes," list the name and relationship.)</p>			
<i>(Name)</i>	<i>(Relationship)</i>	<i>(Name)</i>	<i>(Relationship)</i>
<p>Did someone other than your spouse, parent, or child(ren) prepare this application? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If "Yes," complete Part E.)</p>			
<p>Asylum applicants may be represented by counsel. Have you been provided with a list of persons who may be available to assist you, at little or no cost, with your asylum claim? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p>			
<p>Signature of Applicant (The person in Part A.1.)</p>			
<p>→ []</p> <p style="font-size: x-small; text-align: center;">Sign your name so it all appears within the brackets</p>		<p>JANUARY 30, 2020</p> <p style="font-size: x-small;">Date (mm/dd/yyyy)</p>	
Part E. Declaration of Person Preparing Form, if Other Than Applicant, Spouse, Parent, or Child			
<p>I declare that I have prepared this application at the request of the person named in Part D, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant, and that the completed application was read to the applicant in his or her native language or a language he or she understands for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information on the Form I-589 may also subject me to civil penalties under 8 U.S.C. 1324c and/or criminal penalties under 18 U.S.C. 1546(a).</p>			
<p>Signature of Preparer</p>		<p>Print Complete Name of Preparer</p>	
<p>Daytime Telephone Number ()</p>		<p>Address of Preparer: Street Number and Name</p>	
Apt. Number	City	State	Zip Code
<p>To be completed by an attorney or accredited representative (if any).</p>	<p><input type="checkbox"/> Select this box if Form G-28 is attached.</p>	<p>Attorney State Bar Number (if applicable)</p>	<p>Attorney or Accredited Representative USCIS Online Account Number (if any)</p>

There is a discrepancy with respect to Exhibit 5

Q: Exhibit 5 on the Table of Contents page is the Map of Freedonia. However, Exhibit 5 on the Witnesses, Exhibits and Stipulations page 10 states: Form I-589: Application for Asylum and for Withholding of Removal for Parker Wren. What is the correct Exhibit 5 and did Parker Wren also submit an Application for Asylum?

A: **The correct Exhibit 5 is the Map of Freedonia.** In the original case, Parker Wren did submit an Application for Asylum. We have decided **not** to include Parker Wren's application as an Exhibit in the Michigan version of this case. The correct exhibits are:

Exhibits

1. Form I-589: Application for Asylum and for Withholding of Removal for Quin Zion
2. Letter from Family to Respondent (2 January 2019) – Original & Translated
3. Letter from Family to Respondent (15 Sept. 2019) – Original & Translated
4. Letter from Fredonian government to Respondent (27 December 2019)
5. Map of Freedonia
6. State Department Country Report – Freedonia (Feb. 2019)
7. Email to Rankin Bass from Robert Waterman, WOW
8. Abstract of Knave Foundation *Task Force Report for Freedonia*

We will update the case materials accordingly.

Preponderance of the Evidence.

Q: What is the definition of the preponderance of evidence? Will the case define this or do we research this?

A: Researching is always a good first step. Additionally, please refer to the Case Materials starting on page 11 regarding the correct Burden of Proof for immigration cases and who has the initial burden and any burden shifting that must be considered. However, a good definition for preponderance of evidence is:

The evidentiary standard required to be proven in civil law cases. This is a lower standard than the beyond a reasonable doubt standard normally utilized in criminal cases.

What preponderance of the evidence means is that the burden of proof is met if there is greater than a 50% chance that, based on all the reasonable evidence shown, Respondent's or Government's claims are true.

Many legal scholars define the preponderance of the evidence standard as requiring a finding that at least 51% of the evidence shown favors the plaintiff's (or in this case Respondent's or Government's) story and outcome. Another way to think of the standard is to simply ask whether the Respondent's or Government's proposition is more likely to be true than not true.

The Respondent or Government meets this burden of proof by presenting physical and testimonial evidence to prove their case.

What are the Rules we use?

Q: What rules do we use given the Code of Federal Regulations Rules of Evidence for ICE as under Department of Homeland Security as under the Executive Branch

A: Please utilize the Rules as identified in the guidelines and case packet only.

Questions about how to use team members

Q: On a Team of 10, can student named "X"
in round 1 be lead council for respondent
in round 2 be the respondent and
in round 3 be the timer

A: You may utilize any official team member for any role in the various rounds as long as no team member plays more than one role per round. By "role" we mean attorney or witness or timekeeper.

Q: On a team of 9, can student named "Y"
in round 1 be the Closing council for the US
in round 2 be the ICE investigator (person who interviewed respondent finding no strong evidence for persecution/asylum)
in round 3 be the Closing council again for US

A: You may utilize any official team member for any role in the various rounds as long as no team member plays more than one role per round. By "role" we mean attorney or witness or timekeeper.

Questions About Sean Gallagher's Affidavit

Q: On line 78 of Sean Gallagher's Affidavit, the date that is given is for when they were playing Battle Ball is in April 2010. Is this correct? We think maybe it should be April 2018 since the subsequent testimony deals with Sean being locked up for 7 months then being released from jail in November 2018. Did Sean drink too much pickle juice or is that date correct?

A: The correct date is April 2018. The case materials have been changed accordingly.

Question about Pronunciation

Q: Is there one phonetic pronunciation for the names in the case?
We see some potential for unfruitful bickering on this issue.

A: We will provide two specific pronunciations.

1. Zion is pronounced “Xi-Un.”
2. Shean is pronounced “Shawn”

Question about the Letters from Freedonia

Q: One copy is in English and the other is in the fictitious language of Freedonia. Will witnesses be expected to be able to read from the letters in Freedonian?

A: Witnesses will NOT be expected to read from the letters in the fictitious Freedonian language. We provided both to demonstrate how such exhibits might be presented at an actual immigration asylum trial. Focus on the English-based exhibits.

Question about the I-589 form

Q: I was looking over the case materials and I noticed an error that could materially impact the case - the I -589 form states that the elections took place in November 2019 while all affidavits say November 2018. The I-589 form should be changed to say the elections took place in 2018 because otherwise, attorneys could impeach Quin when Quin says that Quin filed for asylum after the regime change and within 12 months of arriving in the US (in 7/2018).

A: Good catch but we will NOT correct that discrepancy. Teams should deal with that issue as they strategically see fit.