Finding an Expert to Conduct the Immigration Hardship Psychological Evaluation

Mark D. Ackerman, Ph.D., Licensed Psychologist

The realm of immigration law in which a psychological evaluation is most likely to be requested involves the prediction of extreme hardship and psychological distress that would be experienced by a qualifying U.S. citizen relative (e.g. U.S. citizen (USC) child, spouse or parent of a non-permanent resident (NPR) living illegally in the U.S.), as a result of the NPR’s imminent risk for deportation by an immigration court. When extreme hardship is uncovered through the psychological evaluation, pending deportations can be cancelled (“cancellation of removal”) by establishing within the body of the report that the circumstances for the qualifying U.S. relative rise to the level of exceptional and extremely unusual hardship.

There are four other categories that fall under the purview of psychological assessment in immigration cases: political asylum, domestic abuse, cognitive impairment and DACA. Each has relevance to the assessment of hardship factors. In the first category, applicants for political asylum are refugees who often have been exposed to political imprisonment, religious persecution, extreme deprivation, torture and various forms of psychological distress in their home country and are seeking “asylum” or safety from their country of origin within the U.S. under the Immigration and Nationality Act (section 208a). Quite frequently, they experience post-traumatic distress disorder (PTSD) or other emotional difficulties. NPR victims of domestic abuse who are married to a U. S. citizen may be eligible for permanent residency in the U.S. if a psychological evaluation determines that verbal, physical or sexual abuse has occurred and can uncover the impact that this abuse has had on the foreign (NPR) spouse. The Violence Against Women Act (VAWA) would fall into this latter category but can include men as well as women. The third category of assessment involves individuals claiming waiver from the U.S. citizenship examination due to cognitive deficits including such factors as dementia or learning disability. These individuals can be tested to determine if their claims are valid. The last category concerns the new DACA directive wherein deportation is recommended for a young adult due to a criminal conviction, usually a felony. The psychological evaluation can help determine if the conviction may have been the result of a mental disorder, domestic violence or other cognitive deficit.

The immigration hardship psychological evaluation often starts with either a self-referral or a referral from an immigration attorney. Not all immigration attorneys are aware of the importance that a psychological evaluation of individual and family members can have on the final outcome of an immigration appeal. However, case studies have been documented to show that thorough psychological evaluations conducted by a licensed psychologist (or other experienced mental health professional) knowledgeable about the factors involved in immigration hardship can make a huge difference in the outcome of the case. Psychological testing is the unique specialty skill of the psychologist that enables us to diagnose mental and emotional disorders based on psychiatric nomenclature. Diagnoses provided within the
hardship report are often a critical component in the court’s decision concerning determinations of exceptional and unusual hardship.

What is included in a thorough psychological evaluation?

At my office, the psychological evaluation is comprehensive and thorough. It consists of a review of pertinent documents, including medical and psychiatric records where indicated, review of personal and family history, mental status evaluation and psychological testing. Use of validated and reliable testing measures is important due to the need to objectively assess for mental and cognitive disorders which lends greater credibility to the findings. In my evaluations, I often include simple self-report measures that are well-validated and easily interpreted, including the Beck Depression Inventory-II, Post Traumatic Stress Disorder Symptom Scale-Interview, Children’s Depression Inventory-II, Revised Children’s Manifest Anxiety Scale-2, Prime MD Evaluation of Mental Disorders, and the Trail Making Tests and Montreal Cognitive Assessment Scale for culture fair cognitive screening. The importance of a thorough clinical interview cannot be overstated as some measures are simply not appropriate for all examinees and in those cases I may utilize a free-response autobiographical narrative in which examinees report their life-story.

It is important for a psychologist to maintain a culturally informed practice including awareness of and sensitivity to the varied customs and lifestyles of our clients. Many of the examinees at my office have come from different countries around the world. For example, in the past year I have evaluated individuals and families from Mexico, Viet Nam, El Salvador, Guatemala, Singapore, South Africa, the United Kingdom and Liberia. As a result of this diversity, the first step I take in preparing for a new evaluation often includes a review of the U.S. State Department Report on the client’s country of origin.

My final report is comprehensive and includes a review of personal, family and background information, current status, careful detail of hardship factors relevant to the case at hand, results of mental status exam and psychological testing, provision of DSM-IV diagnostic categories where applicable, and summary and recommendations based on the findings. I have learned over the years of doing this work that many families are unaware that they are experiencing exceptional and unusual hardship, but through these evaluations, such difficulties can be uncovered and presented in a persuasive manner. Each evaluation however, is based on objective findings and I always explain to the immigrant family or couple I am working with that a recommendation to support cancellation of removal may not always be indicated. In some cases the circumstances and findings simply do not rise to the level of extreme hardship.

In summary, questions to ask your psychologist or other mental health provider as a first step in considering hiring them to conduct your immigration hardship psychological examination should include the following:

“Are you licensed in your profession?”

“How many hardship evaluations have you performed over the past two years?”
“Do you know how to administer and interpret psychological tests?”

“What do you use to determine a diagnosis in your report?”

“Have you ever testified in court concerning the results of your hardship evaluation?”