

The Uses of Forensic Psychological Evaluations in Immigration Proceedings

By Stephen Reich

Psychological evaluations and reports are used in four major areas of immigration proceedings:

1) Political Asylum Cases:

In this type of case an individual has been subjected to mistreatment and abuse in a foreign country. The mistreatment is frequently associated with a political, religious, ethnic, or gender factor. At some point during the period of mistreatment, the individual leaves that foreign country and makes his or her way to the United States, and files a political asylum claim. In that foreign country, it is very common that the individual has developed psychological problems as a result of the abuse. Sometimes these problems include depressive disorders and/or a Posttraumatic Stress Disorder. Some of these disorders occasionally interfere with the ability to file a political asylum claim within the one year period of time which is allowed for such filings. In those cases, it is necessary to make an assessment whether the psychological problems experienced by the individual when they arrived in the United States interfered with the filing of a timely political asylum claim. In asylum cases, it is also necessary to assess whether an individual *continues* to suffer from psychological symptoms after they have arrived in the United States.

2) Exceptional Hardship Cases:

In exceptional hardship cases, a citizen of the United States, or a legal permanent resident of the United States, who is the spouse or the child of an individual who may have to leave the United States, applies for a waiver on the basis that it would result in an exceptional hardship. Relevant factors in these cases would include family relationships which would make it extraordinarily difficult for that person to leave the country. For example, a United States citizen wife might have a sick parent, or sibling, or be unable to make a living in the country that their spouse would have to go to. The United States citizen or legal permanent resident might himself, or herself, be under treatment for a medical condition which could not be as well treated outside the United States. United States citizen children, or legal permanent resident children, might be so far advanced in their education in this country, and unable to speak, read, or write in the language of the foreign country, that leaving the United States might thus represent a permanent bar to the completion of their education. In exceptional hardship cases, if one parent has to leave the United States, it can produce a separation anxiety disorder on the part of a child left behind. Some children, especially those who are very young, and do not have the emotional maturity to understand *why* a parent might have to leave the United States, might also develop a depressive disorder.

3) Spousal Abuse Cases:

In cases of this nature, a woman or man from a foreign country marries a citizen of the United States, or legal permanent resident of the United States. After the marriage that person is then abused by the United States citizen or legal permanent resident. Such

abuse can take the form of verbal, physical, sexual, or psychological abuse. It is important in these cases to assess the *quality* of the abuse as well as the frequency, and to evaluate the impact that the abuse has had on the individual.

4) Citizenship Waiver Cases:

In these cases an individual who is a legal permanent resident of the United States desires to become a citizen of the United States. However, that individual is unable to pass examinations in United States history and civics, or examinations demonstrating capacity in reading, writing, and speaking in the English language. Psychological evaluations in this area involve the administration of a mental status examination to determine whether there are any cognitive incapacities, or deficits, which interfere with *new* learning. For example, an individual may have memory problems which interfere with the integration of subject matter material such as history or civics. Some individuals have had such minimal schooling in their own country that they have never learned how to learn. In some cases, a medical problem may interfere with the learning process. Some individuals, especially the elderly, may have developed senile dementia, or be in the early stages of Alzheimer's disease. In others, an injury, especially head trauma, may have permanently affected learning ability.

About The Author

Stephen Reich, Ph.D., J.D., is the Director of the Forensic Psychology Group, which provides psychological evaluations and reports in all types of immigration proceedings. He has been practicing as a psychologist for over 35 years, specializing in forensic psychology and evaluations. For that entire period of time, he has been on the faculty of the Weil Medical College of Cornell University, and on the attending staff of the New York-Presbyterian Hospital (Payne Whitney Psychiatric Clinic). He is in private practice, and his areas of specialty include diagnostic evaluation, psychological assessment, expert witness testimony, and psychotherapy. Prior to becoming a psychologist, he was an Assistant Attorney General of the State of New York, and a Lieutenant in the United States Naval Reserve, Judge Advocate General Corp. He thus had experience as a prosecutor and defense lawyer. The Forensic Psychology Group has affiliates in most major cities of the United States, and is available, on an individual basis, to conduct detention evaluations anywhere in the country. He can be reached at sreichphjd@aol.com or by calling 212-935-6133.