

**Ninth Circuit Court****Case:** *Romani v. INS*, 146 F.3d 737 (9th Cir. 1998)**Date:** June 17, 1998**Panel:** Fletcher, Nelson, Silverman**Opinion:** Fletcher**Tags:** Immigration, MTR, exceptional circumstances, failure to appear, asylum, in absentia**Question(s) Presented:** Did respondent fail to appear / present exceptional circumstances for failure to appear?**Holdings:** This is not a failure to appear case. BIA was wrong to affirm IJ's decisions. Remanded.**Rationale:** "it is undisputed that they were present in the courthouse at the appointed hour." 738-39**Facts:** Coptic Christian family from Egypt applying for asylum because of persecution by Muslim organizations. Entered U.S. in 1994 as visitors. 1995 INS charged them with visa overstay. MCH was October of that year. They argue that they were in the courthouse at the designated area on time, but their lawyer's assistant incorrectly told them they should not enter the courtroom because their case had already been decided.**Procedural History:**

- **IJ:** Deportation in absentia, denial of MTR because there were no "exceptional circumstances."
- **BIA:** Affirmed

**Discussion:**

- "Although it is true that the Romanis were not in the courtroom when their case was called, we agree that the Romanis cannot be said to have failed to appear under these circumstances." 739
- "As a result, the Romanis, through no fault of their own, have never had their day in court to present their claims for asylum and withholding of deportation." 739