

## **IMMIGRATION; Asylum not easy in Atlanta court**

The Atlanta Journal-Constitution

September 20, 2011 Tuesday, Main Edition

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The Atlanta Journal-Constitution  
ajc.com

**Section:** METRO NEWS; Pg. 1B

**Length:** 1255 words

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**Highlight:** Sanctuary denied by skeptical judges far greater than U.S. average.

### **Body**

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Atlanta's immigration court is among the toughest in the nation for asylum seekers, denying more than 8 out of every 10 requests over the past six years, a recent study shows.

Atlanta's 84 percent denial rate is above the 53 percent national average, says the report by Syracuse University's Transactional Records Access Clearinghouse, a research organization that monitors the federal government.

TRAC and the government don't keep statistics on why asylum cases are approved or denied, so it's impossible to know why there are such wide disparities between the number of rejections in courts across the nation. In contrast to Atlanta, New York City's court denied 26 percent of applications between 2006 and May.

Attorneys who represent refugees say Atlanta judges are more skeptical and skewed toward the position of Immigration and Customs Enforcement. ICE enforces the nation's immigration laws, deports illegal immigrants and represents the government in asylum hearings. Three of the four Atlanta judges reviewed by TRAC worked for the Immigration and Naturalization Service, ICE's predecessor agency.

Judges who decide asylum cases say they routinely deny flawed claims and occasionally reject fraudulent ones, so some skepticism about asylum claims is warranted.

For refugees, winning asylum in the United States can be a matter of life and death. Many come here fleeing terrorists, brutal governments and religious and political persecution in their home countries.

Attorneys and judges agree the government should keep better statistics and look into the reasons behind the wide gaps in denial rates. That could help the government determine if the law is not being applied evenly and if judges need more or better training.

"How can we know if it is a problem or not," said Dana Marks, a San Francisco-based immigration judge and president of the National Association of Immigration Judges, "unless data is kept in a way that is amenable to try to diagnose what problems could be occurring?"

## IMMIGRATION; Asylum not easy in Atlanta court

Under federal law, people who fear persecution or torture in their home countries must apply for asylum within a year of their arrival in the United States, with some exceptions. They are required to fill out a 12-page application and submit to interviews with federal officials. During the application process, they must demonstrate they have suffered persecution in their home country or have a well-founded fear of experiencing it on account of race, religion, nationality, membership in a particular social group or political opinion.

People representing more than 100 nationalities sought asylum in the United States over the past six years. Most were from China, the TRAC study shows, followed by Colombia.

Thierno Diallo, a West African immigrant, is now fighting in Atlanta's court for asylum. Diallo said government soldiers in his home country of Guinea beat him, detained him and his father, threatened to execute him and gunned down his brother in 2001, all because he and his family joined a political party opposed to the government of then-dictator Lansana Conte. Diallo fled to Sierra Leone, worked in a diamond mine there and then entered the United States in 2004 with a phony Dutch passport. He applied for asylum here less than a year later.

An Atlanta immigration judge denied his request about two years later, ruling Diallo had not demonstrated he had suffered persecution. Diallo appealed. The 11th Circuit Court of Appeals in Atlanta ruled last year that he did indeed suffer from persecution. The case has been sent back to the Atlanta court, where a hearing is scheduled for November.

Federal immigration authorities filed court papers in October, indicating they will look into whether conditions have changed in Guinea enough to make it safe for Diallo to return.

Now 27, Diallo has a four-year-old son who was born in the United States. He is worried some of the same people who attacked his family may still be in Guinea and will kill him if he returns.

"They are going to remember you," he said. "And they will get rid of you. And nobody would know."

His attorney, Glenn Fogle, complained about how tough Atlanta's immigration judges are.

"It's ridiculous," he said. "You have to prove that you are going to get a bullet in your chest as soon as you step out of the plane" in your home country.

The U.S. Justice Department's Executive Office for Immigration Review, which oversees the nation's judges and courts, declined to comment on Diallo's case. But EOIR issued a statement about TRAC's figures.

"Each asylum case has its own set of facts and variables that affect its outcome," EOIR's statement says. "Immigration judges adjudicate cases on a case-by-case basis, according to U.S. immigration law, regulations and precedent decisions"

Former Atlanta immigration judge Grace Sease, who retired last year, had the highest denial rate in Atlanta at 89.2 percent, according to the TRAC report. Sease, a former assistant district counsel for INS in Atlanta, granted only 29 of the 268 requests she decided. Out of 256 immigration judges reviewed, Sease had the 15th highest denial rate.

Sease said the TRAC statistics don't tell the whole story. She said judges might deny asylum for certain people who ultimately find other ways to legally stay in the United States. And immigrants who are ineligible for asylum still apply for it and are denied, including those with criminal records, she said. Georgia is home to the Stewart Detention Center, the biggest and busiest jail in the nation for people facing deportation. Many people held there have criminal records.

"I had murderers apply for asylum," Sease said. "That's sort of an automatic denial."

Fraud is also a problem. Judges say they sometimes sniff out and deny asylum applications that are copied word-for-word among immigrants. Fraud in asylum cases drew the spotlight this year when it was revealed that the West

## IMMIGRATION; Asylum not easy in Atlanta court

African hotel housekeeper who accused then-International Monetary Fund chief Dominique Strauss-Kahn of sexual assault apparently lied on her request for asylum.

Denise Slavin, an immigration judge in Miami, said she once had six different asylum seekers claim to be the one-and-only personal secretary to a political candidate in another country. She said she denied five of the six applications.

"Sometimes people who help prepare the applications will see an application that wins and so they try to repeat that application with other people," said Slavin, vice president of the National Association of Immigration Judges.

But several local attorneys who represent refugees said the judges in Atlanta are more conservative and tougher compared to their colleagues in other parts of the country. Amna Shirazi, a local immigration attorney, said she sometimes encourages her clients to pull up stakes and move out of Georgia so they can seek asylum in friendlier courts.

"If there is any way possible for them to change jurisdiction, I recommend that they do that," Shirazi said, "because I feel like people aren't given a fair shake down here."

By the numbers

Asylum denial rates for Atlanta immigration judges

William Cassidy 86.7

Wayne Houser 75.4

Jonathan Pelletier 88.3

Grace Sease\* 89.2

\*Retired

Courts' asylum denial rates

York, Penn. 85.4

Florence, Ariz. 85.2

Atlanta 84.1

Miami 78.3

Dallas 65.5

Los Angeles 60.1

Chicago 44.2

Phoenix 40.8

New York City 26.4

Nation 53.2

Source: Syracuse University's Transactional Records Access Clearinghouse. TRAC reported statistics only for judges who made at least 100 asylum decisions between fiscal year 2006 and May.

## Classification

**Language:** ENGLISH

**Publication-Type:** Newspapers

**Subject:** IMMIGRATION (93%); POLITICAL ASYLUM (90%); IMMIGRATION LAW (90%); JUDGES (90%); US FEDERAL GOVERNMENT (89%); REFUGEES (89%); CITIZENSHIP (77%); TORTURE (75%); ASSOCIATIONS & ORGANIZATIONS (74%); PUBLIC OFFICIALS (73%); DEPORTATION (71%); LAW COURTS & TRIBUNALS (71%); ILLEGAL IMMIGRANTS (71%); RESEARCH REPORTS (70%); RELIGION (62%); TERRORISM (50%)

**Organization:** SYRACUSE UNIVERSITY (58%)

**Geographic:** NEW YORK, NY, USA (79%); NEW YORK, USA (79%); CALIFORNIA, USA (79%); UNITED STATES (92%)

**Load-Date:** September 20, 2011