

Tough rules delay asylum cases

Anti-terrorism efforts require stricter proof of persecution, including documents that can "reasonably" be obtained.

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(KL)CDPROOFb--Ethiopian, Samuel Tafesa, 22-years-old, washes a car window at Hertz rental cars, DIA, Friday morning. Tafesa had to flee his country after being jailed and tortured for passing out political flyers for an opposition party. Tafesa made it into the US through Mexico last year and is fighting for asylum fearing that he will be killed if he returns to Ethiopia. Andy Cross/The Denver Post (THE DENVER POST | ANDY CROSS)

Jailed and tortured in Ethiopia, Samuel Tafesa made it to Mexico, then waded across the Rio Grande into the United States.

Now in Denver, he's begging for asylum protection, claiming that Ethiopian police beat him with sticks on the bottoms of his feet and held his head under water, trying to coerce information about fellow members of an opposition political party.

"I'm afraid to go back to Ethiopia," he said. "If I go back, I'll be killed."

For Tafesa and tens of thousands of other asylum-seekers, sanctuary in America has become harder to attain. U.S. officials are subjecting them to increasingly rigorous scrutiny, government officials and legal experts say.

New anti-terrorism measures require stricter proof of persecution, including documents that can "reasonably" be obtained.

Tafesa, 22, called back to Ethiopia repeatedly, asking his mother to get what she can for his lawyer, Michael Litman.

Today's higher standard of proof makes cases more complex and prolongs them, with government attorneys sending documents to a Homeland Security forensics lab for testing.

"We have a tradition, but we want to make sure people seeking (asylum) have a rightful entitlement," said Mike Everitt, a unit chief in the lab near Washington, D.C.

The new measures are contributing to a record immigration-court backlog - 3,370 cases pending in Denver, a third involving asylum, federal statistics show. That's double Denver's pending caseload six years ago.

Department of Justice officials said 166,200 cases are pending in immigration courts nationwide, including 33,194 in Los Angeles, 8,546 in Chicago and 9,455 in Orlando, Fla. In 2000, 125,764 cases were pending.

"Overburdened" system

Dana Marks, a sitting judge in California and president of the National Association of Immigration Judges, said dozens more judges are needed.

The system is "unbelievably overburdened," squeezing judges' ability to make life-or-death decisions, Marks said.

"Why are we treating the asylum system this way? If we pride ourselves in America for treating refugees right, why aren't we providing resources to ensure they get prompt and fair treatment?" Marks said.

Now, fewer people are applying for asylum, though the reasons for the drop aren't clear.

Some 54,452 applications were received last year in immigration courts, down from 74,627 in 2002 and 84,904 in 1997, records show. Adjudicators for the U.S. Bureau of Citizenship and Immigration Services, who often see asylum-seekers first, received 36,502 applications last year, down from 65,201 in 2002 and 149,000 in 1995, according to a senior USCIS official who spoke on condition of anonymity, in accordance with agency policy.

In Denver, about one in three cases handled is approved. Asylum experts say it's too early to gauge whether the new standards for proof will change that percentage.

USCIS adjudicators approved 27 percent of cases they handled this year, down from 43 percent in 2001, according to the senior official. In immigration courts, stats show 23 percent of applications processed last year were approved, up from 20 percent in 2002.

Previously, asylum-seekers often were accepted solely on the basis of government "country condition" reports and testimony that judges found to be credible and persuasive.

Today's higher standards requiring documentation that could "reasonably" be obtained "change the burden of proof," the official said. But "there's still the allowance" that an applicant who can't obtain documents can win asylum if deemed credible, he said.

"Out of reach for many"

One problem caused by the more frequent demand for documents is that hiring document and medical experts raises legal costs, said Regina Germain, legal director at the Rocky Mountain Survivors Center and author of a legal text on asylum law.

"I fear recent changes ... could put asylum out of reach for many people who flee with little more than the clothes on their backs," Germain said.

In Tafesa's case, an Addis Ababa police document his mother sent says he was imprisoned for 17 days in 2005 for being a member of the Coalition for Unity and Democracy Party. The document accuses him of involvement in "illegal demonstrations" and "promoting unhealthy propaganda and causing conflict of people against people."

It says he was released from prison on the condition he cease all political activity and check in weekly, which he failed to do. It warns: "The police department will track you and your family down."

The government is vetting those documents. His case is scheduled for a hearing in May.

Meantime, he works under a temporary permit, washing rental cars at Denver International Airport for \$8.85 an hour that he uses mostly for legal fees.

His father and brother in Ethiopia have gone missing, and his 6-year-old son, Mathais, is bewildered, Tafesa said before work Friday.

"He asks me: 'Where are you?' I tell him I'll be there one day," Tafesa said. "What can I do?"

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