

FUSION: Rise Up: Be Heard

## Seeking asylum in U.S. immigration courts is a lot like playing roulette

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Senia thought nothing of the two young men trailing behind her as she walked to her local bus stop in Usulután, El Salvador, on April 8, 2014—until they boarded the same bus, shoved her against a window, showed her a weapon, and asked her how she wanted to die: quickly, or slowly? They knew her name, the names of her family members, and where they all lived. Death would be unavoidable, they told Senia, unless she disappeared.

Senia, now 27, believes she was targeted due to her involvement with a church that had fallen into disfavor with a local gang. When members of the clergy began receiving personal threats in 2013, she stated, at least one of the visiting priests, fearing for his life, chose to return to his home country.

Terrified by the encounter on the bus, Senia—she asked Fusion to change her name for this story because she still fears being discovered by her would-be-attackers—was forced to make a life-changing decision. She abandoned her plans to graduate from university in El Salvador, went into hiding, and eventually fled to the United States.

She survived the long, perilous trek north from El Salvador to the U.S.-Mexico border, but was apprehended there by U.S. border agents and sent to Mesa Verde Detention Facility in Bakersfield, CA, where she was first interviewed by Fusion. There, facing deportation, Senia filed a request for asylum. She was warned by other detainees that the legal process would be a crapshoot.

“The judges don’t have a good reputation [among the detainees],” she told Fusion in Spanish. “It’s really scary knowing that you have to face someone who has the power to decide, ultimately, whether you’ll stay or have to leave the country.”

As it turns out, the odds were even longer than she realized. That’s because the immigration judge who Senia said presided over her case, Anthony S. Murry, almost never grants asylum: over 97% of the 410 asylum cases he decided between 2009-2014 were denied, according to a judge-by-judge study of asylum decisions in the U.S. conducted at Syracuse University. (We attempted to reach Murry for comment, but had not received a response at the time this article was published.)

What Senia’s story shows, and what the Syracuse study confirms, is that seeking asylum in the U.S. is akin to playing roulette. Regardless of why they leave their country—gang violence, sexual abuse, political persecution—the fate of immigrants seeking asylum is often determined by where their case is being heard, and who is hearing it.

For example, Judge Murry denied nearly all of the 410 asylum requests he received between 2009-14, while another judge at the same San Francisco court, Laura L. Ramirez, granted asylum in over 75% of the 462 cases she reviewed, according to the study. And similar contrasts exist in other immigration courts. In Chicago for example, Judge Philip DiMarzio denied 96% of asylum requests, while Judge Glen Bower denied only 17%.

In-between those extremes are other immigration judges with more balanced records on asylum cases. And taken in aggregate, the rates do balance out: nationally, between 2009-14, immigration court judges ruled in favor of asylum seekers just a tick more than half of the time, according to the study. A handful of courts also appear friendly to asylum seekers. New York’s immigration court, for example, is notable for being the only court where judges granted asylum in more than 90% of their cases.

But in some courts, the odds are clearly stacked against immigrants seeking asylum. If you’re applying for asylum in Eloy, Arizona, for example, good luck. Each of the four judges at that court, whose decisions were examined in the Syracuse study, denied more than 94% of the asylum cases that came before them. Similarly, each of the five immigration judges in Miami denied over 92% of the requests they received.

The research group responsible for the study, Transactional Records Access Clearinghouse (TRAC), obtained the data from the Executive Office for Immigration Review (EOIR) through Freedom of Information Act requests. They received asylum decision stats for 207 judges in 48 immigration courts.

Judges aren't the only thing influencing asylum decisions, according to TRAC. The absence of legal representation is also a predictor. Nationally, nearly 15% of asylum seekers were found to have no legal representation in immigration courts, and the vast majority (89%) of those asylum cases were denied.

"Lack of representation... affects the likelihood of success," said Nancy Abudu, legal director of ACLU Florida. "When you can't find a free attorney and can't afford one, what are your options?"

Katharina Obser at the Women's Refugee Commission in New York said that eliminating immigration detention altogether could make it easier for asylum applicants to find an attorney and prepare for the legal process.

"To [go through the process] alone, without the assistance of an expert immigration attorney, it's nearly impossible," Obser said. "It is such a complicated process that, often, people are forced to navigate on their own without speaking English and without having access to even basic legal information, let alone being able to prepare a legal case in front of an immigration judge where there is opposing counsel."

In addition to the lack of access to legal counsel, said Abudu, immigrants are often forced to spend long, difficult periods in detention as they wait for their cases to be adjudicated. Senia, for instance, said she was detained for nine months during one stretch as she waited for a court hearing. Immigrants have staged hunger strikes at detention centers around the country, including these 22 mothers who were locked up with their small children at a Pennsylvania detention center for nearly a year, to call attention to the indefinite detentions and poor living conditions.

"The toll on detainees is inhumane while they're waiting," Abudu said. "If someone has established that they are persecuted, those types of [asylum] cases should get special scrutiny."

Arizona immigration attorney Jerry Burns calls Arizona "ground-zero for anti-immigrant rhetoric and legislation." In an area with that sort of reputation, he said, pursuing an asylum case is especially difficult.

"It's usually their first time in the United States, and they find themselves at the border saying 'save us,' basically, and the environment in Eloy is not conducive to that," said Burns. "This is a place where people are trying to pass really harsh immigration laws."

According to Burns, the combination of anti-immigrant politics, lack of legal resources for immigrants, and high volume of cases moving through the system, works against asylum-seekers in Arizona.

"They (asylum seekers) don't understand the process of the burden of proof they need to provide, and they're going against a judge that is overworked and underpaid," Burns said. "You're just going to get run right over."

After her asylum request was rejected, Senia filed an appeal, and her luck changed: a different immigration judge overturned the ruling, and her deportation order was stopped. Senia was given her freedom and relocated to New York City, where she spoke to Fusion by phone. She told us that until her life was threatened in El Salvador, she'd never had any intention of coming to the U.S., much less illegally.

"There are a lot of people dying over there (in El Salvador), innocent people that are not even involved in crime," she said. "The criminals take away the dreams, plans, and the lives of hardworking people who just want to provide for their families."

This article is part of a larger Fusion reporting project that examined health, immigration, and policing issues in Kern County, CA. An hourlong documentary about that project, *The Naked Truth: Shadow Town*, can be viewed [here](#).

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<http://fusion.net/story/365066/immigration-reform-asylum-refugees-centralamerica/>