

KINGSTON, MARTINEZ & HOGAN, LLP

ABBE ALLEN KINGSTON*
www.kmhimmigration.com
kingston@kmhimmigration.com

HELENE M. GRADOW
gradow@kmhimmigration.com

TANYA A. AHLMAN
tanya@kmhimmigration.com

ANDREA M. ANAYA
andrea@kmhimmigration.com

ATTORNEYS AT LAW

1300 SANTA BARBARA STREET
SANTA BARBARA, CALIFORNIA 93101
(805) 963-9585
FAX (805) 963-2774

BRUCE W. HOGAN
bhogan@101freeway.com
www.santabarbaracollectionlaw.net
JOSEPH A. MARTINEZ, (1945-2011)

*CERTIFIED SPECIALIST IMMIGRATION LAW
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

Refugees vs. Asylees

June 29, 2017

Both asylees and refugees are persons who are subject to persecution because of their race, religion, nationality, political opinion, or membership in a particular social group. Additionally, to qualify for either asylum or refugee status, you must demonstrate that your fear of persecution is well-founded.

The *location* of the applicant determines whether someone is an asylee or refugee.

Refugee

A refugee is someone who is outside the United States who applies to the U.S. Refugee Admission Program for consideration based on a fear of persecution due to their race, religion, nationality, political opinion, or membership in a particular social group.

Refugees currently undergo one of the most rigorous security screening processes to enter the United States. Each refugee must undergo an extensive interviewing, screening, and security clearance process. They must also prove that they have a case of “well-founded fear”. Additionally, refugees must show that they are not inadmissible from the United States based on health-related grounds, moral/criminal grounds, and security grounds.

The United States selects the refugees who resettle here, and they go through multiple layers of security checks involving the Department of Homeland Security, the FBI, the Department of Defense, and intelligence agencies. Refugees must be thoroughly vetted to come to the United States. These checks may require from two to three years before the refugee is cleared.

Refugee resettlement is determined by the U.S. State Department. Each year the President, in consultation with Congress, determines the numerical ceiling for refugee admissions.

Asylee

An asylee is an individual who is either inside the United States or turns him/herself in at a U.S. point of entry seeking asylum.

They are seeking protection because they have suffered persecution or fear that they will suffer persecution due to:

- Race

- Religion
- Nationality
- Membership in a particular social group
- Political opinion

An individual may apply for asylum if they are at a port of entry or in the United States. An individual may also apply for asylum, regardless of immigration status, within one year of arrival to the United States.

An individual will not be eligible to apply for asylum if the asylum application is filed after being in the United States for more than one year, unless there are changed circumstances materially affecting eligibility for asylum or extraordinary circumstances exist that delayed the filing.

In order to determine whether an individual qualifies for asylum, an asylum officer will conduct a credible fear interview. The results of the interview can be the difference between success and failure for an asylum application.

If granted asylum, the asylee (and any eligible spouse or child included in the petition) is permitted to remain and work in the United States and may eventually adjust to lawful permanent resident status. If denied asylum, an applicant is placed in removal proceedings and can be ordered removed from the United States.

It is important to note that a frivolous asylum claim may expose a person to be placed in removal proceedings in immigration court and may be deported. It is very important to ensure you have a strong asylum case prior to affirmatively filing for asylum.

Authored by: Abbe Allen Kingston, Esquire* & Andrea Anaya, Esquire
**California State Bar Immigration & Nationality Specialist*
Kingston, Martinez & Hogan, LLP