

Travel or Departure May Jeopardize U.S. Asylum Claims, Says Immigration Attorney

Tamika Jude warns asylum seekers that travel to their country of origin while awaiting U.S. asylum decisions may suggest the claim is frivolous, resulting in permanent ineligibility for immigration benefits.

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People in the United States with asylum claims have some difficult choices to make, given the current policy stance of the Trump administration.

The Consortium previously reported on immigration attorney Tamika Jude's recommendations on how permanent residents and visa holders in the United States [can keep themselves in safe](#) as they navigate the current regulatory framework. However the calculus for asylum seekers, Ms. Jude said, is markedly different.

“An affirmative application [for asylum] is filed with U.S. Citizenship and Immigration Services, while a defensive [application] is filed with the court while they are in proceedings,” Ms. Jude explained, noting that “some people don’t know the distinction.”

“Someone can only file an affirmative asylum [application] if they entered without being detected, or if they were detected but a Notice to Appear (NTA) was never filed,” the immigration attorney continued. She cautioned that “it may not always be smart” to file an affirmative application. “If you don’t have a strong case it’s problematic,” Ms. Jude noted.

Those finding themselves in this situation must carefully consider their options, Ms. Jude advised, factoring in “legal implications and personal considerations.”

One option is to abandon the application. Choosing to leave the United States while an asylum application is pending “is generally considered an abandonment of the application, leading to its denial,” Ms. Jude said. Such voluntary departure “allows you to leave at your own expense within a designated timeframe, avoiding a removal order and associated penalties.” However, Ms. Jude notes that “leaving the U.S. without proper procedures may result in a removal order, leading to re-entry bars of up to 10 years.”

Applicants who need to travel abroad who do not wish to abandon their application can apply for what is known as “advance parole.” However, even with parole travel for asylum-seekers is risky, Ms. Jude warned, as “re-entry into the U.S. is not guaranteed, especially if there are other grounds of inadmissibility.”

Travel to the country from which an asylum-seeker claims persecution is especially ill-advised, as immigration officials may conclude that the individual no longer fears persecution and thus does not need the protections of the United States granted under asylum. This is especially true if “your reason for returning is not tied to urgent or unavoidable circumstances.” A return to the individual’s country of origin despite a pending asylum application could also trigger suspicions that the application was frivolous, “which has much more serious consequences,” Ms. Jude said. The person could be “permanently barred from receiving any immigration benefits in the United States – not just asylum.” As Ms. Jude explained, this would mean the loss of green card eligibility, work permit eligibility, the ability for any future adjustment of status, and any form of relief from removal.

“Returning to your country – especially without a compelling reason – could be used as evidence that your claim was not genuine, raising the risk of a frivolous finding,” Ms. Jude warned.

She recommends that asylum seekers remain in the United States until a decision is made on their application, and to seek the advice of an attorney that specializes in immigration and asylum matters “to explore all available options and understand the potential risks associated with voluntary departure.”