

# USA TODAY

## The gut-wrenching life of an immigration judge: Column

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We do our best to follow the law, day after day, even when it breaks our hearts.



Immigration protest at the White House on Dec. 30, 2015.

(Photo: Shawn Thew, epa)

I am an immigration judge. People I meet seem pretty interested in that, especially lately. But they often don't seem to understand what we do. I've found that the best way to explain the job is to describe some of the decisions we make.

People come before an immigration judge because the U.S. government, via the Department of Homeland Security, is trying to deport them. And there is usually little dispute that they are deportable. They've come across the border illegally, or they've overstayed their visas, or they have legal status in the U.S. but have committed crimes that make them deportable. So we don't have to spend much time deciding whether someone is here legally or not.

What we do spend time on is whether the person before us has a legal basis to remain in our country. For example, someone facing physical abuse (or worse) back home, depending on the reasons for such persecution, may be eligible for asylum and can stay. A person with U.S. citizen children — who has been here at least 10 years and has good moral character, and whose kids would suffer “[exceptional and extremely unusual hardship](#)” if the parent is deported — can stay. Even someone who has committed a violent or other serious crime in the U.S., if he can show he would be tortured by public officials in his home country, can stay.

Deciding such cases doesn't sound so difficult. But it often is.

Take the example of someone seeking asylum. One of our most vexing challenges is assessing credibility — trying to figure out whether the person is telling the truth about what he fears and why. Sometimes, there is not much to go on other than the person's own testimony. Yet this is not a decision we want to get wrong. I've probably been fooled and granted asylum to some who didn't deserve it. I hope and pray I have not denied asylum to some who did.

Cases involving a father or mother with a couple of U.S. citizen kids are among our most gut-wrenching. That “exceptional and extremely unusual hardship” standard can be difficult to meet. The law requires more than the sort of emotional and financial hardship that normally exists in deportation cases. So we sometimes have to order fine people, who have been here a long time, deported to places they barely remember — in decisions often delivered orally, in court, in front of sobbing kids and desperate spouses.

And there are those few whose only available claim, because of their serious convictions, is that they will be tortured. They are the least sympathetic of those who appear before us. Drug traffickers. Sex offenders. Thieves. They seek protection pursuant to our obligations under the [United Nations Convention Against Torture](#). When on very rare occasions the evidence compels it, I grant them relief. To our nation’s great moral credit, we don’t send people to places where they will be tortured — no matter how repugnant their crimes.

Some of those the government is trying to deport are detained. Decisions by immigration judges on whether to grant them bond have significant consequences of their own. A detained person might have only weeks, not months or years, to prepare his case. And he could be held several hours away from his lawyer, assuming he is fortunate enough to have one. At the same time, no immigration judge wants to conclude someone is neither a danger nor a flight risk, grant release, and then be proved wrong.

Immigration judges make these decisions alone. Many are made following distraught or shame-filled testimony covering almost unimaginable acts of inhumanity. And we make them several times a day, day after day, year after year.

We take every decision we make very seriously. We do our best to be fair to every person who comes before us. We judge each case on its own merits, no matter how many times we’ve seen similar fact patterns before.

We are not policymakers. We are not legislators. We are judges. Although we are employees of the U.S. Department of Justice who act under the delegated authority of the attorney general, no one tells us how to decide a case. I have been an immigration judge for more than 11 years, and nobody has ever tried to influence a single one of my thousands of decisions.

And finally, because we are judges, we do our best to follow the law and apply it impartially to the people who appear before us. I know I do so, even when it breaks my heart.

*[Thomas G. Snow](#) is an immigration judge in Arlington, Va. He was acting director of the Executive Office for Immigration Review, responsible for the entire U.S. Immigration Court system, from 2009 to 2011. The views expressed in this piece are his own and do not necessarily reflect those of EOIR or the Department of Justice.*

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