



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Immigration Judges Get Warning On Rescheduling Cases

By Allissa Wickham

Law360, New York (August 2, 2017, 10:04 PM EDT) -- Citing a crushing backlog of cases, the country's top immigration judge has warned immigration courts not to routinely allow for delays in cases, otherwise known as continuances, unless there's a good reason.

In a memo posted publicly by the U.S. Department of Justice on Monday, Chief Immigration Judge MaryBeth Keller told immigration judges that they should not "routinely or automatically grant continuances" without a "showing of good cause or a clear case law basis."

"It is more important than ever that immigration judges ensure that our resources are used efficiently," the memo states. "In particular, the delays caused by granting multiple and lengthy continuances, when multiplied across the entire immigration court system, exacerbate already crowded immigration dockets."

Continuances allow cases to be rescheduled for a later day. The memo instructs judges generally not to allow continuance requests that are used only for "dilatory purposes," which can be used to delay deportation.

Judge Keller said her directive comes as the number of pending cases in immigration courts has grown to more than 600,000.

According to records obtained by the Transactions Records Access Clearinghouse at Syracuse University under Freedom of Information Act requests, there were **610,524 pending cases** in the immigration courts as of June 30, up from 598,943 at the end of May.

The TRAC report also identified a 9.3 percent drop in final dispositions issued in immigration court cases since President Donald Trump took office, decreasing from 84,956 over a five-month period last year to 77,085 in the same window this year.

In May, the White House proposed tackling the backlog by hiring 75 more immigration judges and about 375 additional immigration-related employees. The director of the Executive Office for Immigration Review, James McHenry, said in June after he hired **11 new immigration judges** that he intended to "maximiz[e] the use and effectiveness of current adjudicatory capacity" as well as identify ways to "enhance immigration judge

productivity without compromising due process.”

In Monday’s memo, Judge Keller noted that when it comes to granting a continuance to give someone the chance to get an attorney, it “remains general policy” that at minimum one continuance should be allowed.

The memo also noted that “frequent or multiple requests” for extra preparation time due to a lawyer’s workload worries tied to “large numbers of other pending cases” ought to be “rare and warrant careful review.”

“For a practitioner who takes on more cases than he or she can responsibly and professionally handle, necessitating the need for multiple continuances across multiple cases, it may also be appropriate for an immigration judge to consider referral to EOIR disciplinary counsel for further action and possible sanction,” the memo warns.

Additionally, the directive zeroes in on merits hearings, saying that judges generally “should not continue individual merits hearings absent a genuine showing of good cause or a clear case law basis.”

A spokesperson for the EOIR was not immediately able to respond to questions about the memo on Wednesday.

--Additional reporting by Nicole Narea. Editing by Mark Lebetkin.

All Content © 2003-2017, Portfolio Media, Inc.

https://www.law360.com/immigration/articles/950532/immigration-judges-get-warning-on-rescheduling-cases?nl_pk=64b4ed1a-14e9-4422-be5a-5d8b3cd1eb0d&utm_source=newsletter&utm_medium=email&utm_campaign=immigration
