

The DOJ Accidentally Doxxed These Immigration Judges

The Department of Justice thought it had adequately redacted the names of immigration judges involved in complaints in a recent response to a FOIA request. It didn't, and now it might be sued.



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In the final days of the Obama administration, an immigration attorney based in Long Island made a remarkable discovery: that the Justice Department accidentally doxxed some of its most powerful employees.

The mistake has implications for a Freedom of Information Act lawsuit the department is embroiled in, and it could get the DOJ sued by judges it employs. On top of that, it also has the potential to change the way we think about how the government decides who gets deported.

This mistake happened in early 2015, when the Justice Department released a trove of heavily redacted documents on complaints filed with the department about immigration judges.

U.S. immigration courts—the tribunals that decide whether or not undocumented immigrants get deported or gain refugee status—are part of the Justice Department. As a result, their inner workings are often more secretive and obtuse than the federal judiciary. In an effort to make the courts more transparent, the American Immigration Lawyers Association—working with attorneys from the liberal-leaning watchdog group Public Citizen Litigation Group and the American Immigration Council—sued the DOJ's

Executive Office for Immigration Review, demanding documentation on complaints filed against immigration judges and how those complaints were handled.

After litigation, the Justice Department turned over more than 16,000 pages of documents. Those documents included complaints themselves, as well as internal DOJ communications on how to handle them. The documents also detailed what kind of discipline (or lack thereof) judges received for engaging in unethical or unprofessional behavior. But the names of the judges discussed in those documents were blacked out, along with the names of the lawyers who filed the complaints and the names of their clients.

So the American Immigration Lawyers Association went back to court, arguing that the DOJ should reveal the names of the judges who generated those complaints. The Justice Department, in turn, argued that releasing the judges' names would violate their privacy rights. That litigation is ongoing.

A few days before Inauguration Day, meanwhile, an immigration attorney named Bryan Johnson was combing through that document trove in search of any tidbits that could help him. Johnson, of the Long Island, New York, law firm Amoachi & Johnson PLLC, represents children who come to the United States without legal authorization, fleeing drug violence in Central America. For these clients, who seek refugee status from some of the most violent parts of the world, deportation can be a death sentence.

Johnson told The Daily Beast that as he was going through those documents, he switched from one document-viewing software program to another, in hopes of making it easier to scroll through.

But when he made the switch, something happened that he hadn't expected: The redactions vanished.

The documents, reviewed by The Daily Beast, show that black marks designed to obscure the names of immigration judges had disappeared, revealing their identities.

Since the judges' names weren't the only thing redacted in those complaints, Johnson didn't post the unredacted text online; in order to protect the personal information of vulnerable immigrants trying to get legal status in the United States.

Instead, he re-posted the redacted documents on his law firm's blog, and used information in the unredacted documents to make a key matching judges with complaints.

Lauren Alder Reid, a spokesperson for the DOJ's Executive Office of Immigration Review, said Johnson's blog post contained inaccuracies.

"EOIR is aware that a private attorney viewed EOIR-provided documents that the American Immigration Lawyers' Association, Plaintiff in the relevant litigation, posted to the Internet and that the private attorney took the time to seek data not accessible on the face of the documents themselves," she said. "EOIR has determined that this unfortunate incident resulted in the attorney publishing an inaccurate 'key' to the documents. EOIR will continue to defend its case in the referenced FOIA litigation, and remains committed to protecting the identities of the immigration judges against whom complaints, some substantiated and some unsubstantiated, have been filed."

When The Daily Beast asked what inaccuracies were in Johnson's post, the spokesperson said, "The 'key' the private attorney released does not accurately pair immigration judges with complaints that have been filed. The 'key' itself, therefore, is the inaccuracy."

She didn't provide any further detail on any alleged inaccuracies, citing the ongoing FOIA litigation.

Johnson said her claims that he erred are baseless.

Julie Murray, a staff attorney for Public Citizen Litigation Group, didn't confirm or deny Johnson's work.

“We have not independently verified the accuracy of his findings,” she told The Daily Beast. “However, particularly in light of the possibility that the processing errors may also have revealed non-public information beyond immigration judges’ names, including private information regarding non-government employees, we determined to remove from AILA’s website for now the affected documents specifically identified by Mr. Johnson.”

Some of the complaints he highlighted are disturbing. One complainant alleges that an immigration judge gave special leniency to the clients of another immigration attorney. In some complaints, immigrants allege that judges laughed at them, mocked them, and didn’t take seriously their pleas for asylum.

One complaint described a judge making “lengthy and unjustified, unprofessional lectures on how to practice law”—wasting valuable courtroom time. Another complaint described an attorney from the Department for Homeland Security trying to get an immigration judge to postpone a hearing because a lawyer for an immigrant was coughing frequently, and admitted to having the flu. The DHS attorney worried other people in the courtroom would get sick, and told the judge as much. The judge responded by spending 20 minutes berating the attorney for being “overly sensitive” to germs, and calling him a germaphobe. Documents showed multiple allegations of that judge rudely yelling at DHS attorneys.

Another attorney alleged that an immigration judge accused her of wearing perfume when she wasn’t wearing any, and also said she had tried to kill him by coming into court with a cold.

“Everyone is afraid of making complaints/comments/inquiries,” the attorney wrote.

Charles Kuck, an immigration attorney whose practice is based in Atlanta, told The Daily Beast he was appalled by some of the allegations, as well as what he believes were vastly inadequate responses by the Justice Department.

“This is an unprecedented number of complaints against judges that don’t appear to be resolved in a way that fixes behavior,” he said.

“If this was happening in federal district court, people would be screaming bloody murder,” he added. “But because the people who are harmed are usually deported, nobody complains.”

As for the Justice Department’s redaction screw-up? In Kuck’s view, it’s “a stunning level of incompetence.”

Bradley Moss, an attorney who specializes in FOIA litigation, described it as “government incompetence in all its glory.” And he said the immigration judges whose information was inadvertently revealed might have grounds to sue the Justice Department for violating their privacy.

Moss isn’t alone in that view. Denise Slavin is the executive vice president of the National Association of Immigration Judges, the union that represents them. She said she was astonished that the Justice Department didn’t sufficiently protect the judges’ identities.

“They have spent so much time and money fighting this case in the courts,” she said. “That they didn’t take the precautions to make sure that this would not happen is shocking.”

And she said there’s chatter about potential lawsuits.

“It’s something we’re looking into, and I know that some judges are looking into that too,” she said.

And the Justice Department’s approach to handling complaints is also a problem, she added. Judges don’t always know when complaints are filed against them, she said, and don’t always get a say in how the Justice Department handles those complaints. This

means the documents about complaints don't include their side. The union wants an overhaul of the entire system of handling complaints against immigration judges.

"We do want an accountable system for public transparency for complaints filed against judges and how they're dealt with," she said. "But this is not it, and releasing this is defamatory and prejudicial against the judges who are being reported in there."

And she said this all raises a larger issue: the question of whether the Justice Department should be responsible for running the immigration courts. Since immigration judges are excluded from the independent federal judiciary, Slavin's group argues that they are less transparent and accountable than they should be. The immigration courts have a huge backlog—more than half a million cases, [according to Syracuse University's Transactional Records Access Clearinghouse](#). And immigration judges have far fewer clerks than judges on the federal bench.

The result is a system that is extraordinarily overburdened—a system where life-or-death decisions get made every day.

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