

Deporting 'bad hombres' a Trump sham if region's immigration courts are crippled | Opinion

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Immigration law expert: Shuffling judges around the country is a shell game for Immigration Courts and a raw deal for immigrants that allows the administration to claim it's taking steps to made good on its get tough promises to deport "bad hombres," but actually sells a false bill of goods to the public. (Saul Loeb | Getty Images)

BY **STAR-LEDGER GUEST COLUMNIST**

By **Stacy Caplow**

Immigration Courts have been in crisis for several years as their case backlog has been steadily skyrocketing to the current last-reported level of an astonishing 542,411 cases. At the same time that the [court's backlog is mounting](#), its efficiency is declining.

Recently, the Justice Department asked immigration judges to volunteer for temporary reassignment to the 12 most overloaded courts. The latest news is that the transfers are likely to be detailed to detention centers, mostly in Texas and California.

Shuffling judges around the country is a shell game for Immigration Courts and a raw deal for immigrants that allows the administration to claim it's taking steps to make good on its get tough promises to deport "bad hombres," but actually sells a false bill of goods to the public.

It is simply not true that this temporary reallocation of resources is mandated based on the situation today.

Rather, it serves the "criminal immigrant" rhetoric of the new administration. Just because an individual is detained does not mean that he or she is being deported on criminal grounds.

Take New York, for example. Only 3,326 people are in removal proceedings on criminal grounds. Of those only 522 are detained. This represents only 4.4 percent of the 74,841 case backlog involving a wide range of non-criminal related cases such as asylum seekers and people applying for other immigration benefits.

This scheme perverts an adjudication system that already doesn't even match norms of the criminal process (it lacks the guarantee of counsel or speedy trial and can be conducted via closed-circuit videoconferencing rather than in person). Some individuals in immigration court actually will qualify for relief from removal-if a judge could ever hear their cases. But their cases are languishing for years, and, with this reshuffling, will drag on even longer without resolution.

This latest example of smoke and mirrors creates more problems than it solves. Every time a judge is unavailable to handle his or her regular docket, those cases are delayed, now often for two to three years. Or longer.

One of my asylum-seeking clients, a Newark resident, was recently the victim of this failing system. After fleeing to the United States following her detention and torture, she first appeared in New York Immigration Court in December 2013. Her case was adjourned for a hearing to April 2016. When she returned to court in April, over my objection, instead of a hearing, the case was transferred to the court in Newark where she had moved for its more affordable housing.

It took a year for her case to be set on the Newark court's calendar -- March 14 --last week's snow day when the court was closed. Yesterday, she received a notice with her new court date -- not for her hearing but for yet another calendar call in June. At first I thought, not too bad, only a few month's delay. Then, I read the notice again. Her next court date is *June 18, 2019!*

And then two plus years from now it's likely there will be another extended delay until her individual hearing. In Newark, it takes an average of 948 days to complete a case. Do the math and try to figure out when she will be re-united with her daughter stranded in Africa.

Backlog is an understatement; dysfunctional nightmare is more accurate.

The problem needs more than a flimsy redistribution of already stretched-to-the-limit resources to stop the deterioration of due process into a mockery.

Get new judges appointed and working, and return the reassigned judges to their caseloads. But don't play games with a gullible public by pretending that a big problem is being solved with a temporary fix that in reality exacerbates existing defects while creating even worse new ones.

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