

The United States Law Week

DOJ Halts Mass Immigration Hearings, Upping Virus Response (2)

By Madison Alder

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- New measures expand upon hearing delays in large cities
 - Response comes after judges, lawyers pleaded for action
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The Justice Department agency overseeing the nation's immigration courts will limit mass preliminary hearings that bring large groups of people into close proximity across the country, escalating its response to the coronavirus but still falling short of the demands of people who preside over and practice in those venues.

Such hearings will be suspended from Monday until April 10, and one immigration court, in Seattle, will remain completely closed until that date. That Seattle court has been shuttered since a reported second-hand exposure to the virus last week, the Executive Office for Immigration Review has said.

The EOIR's new measures, announced late Sunday in a tweet, follow a week of pleading by immigration judges and lawyers to pause master calendar hearings for non-detained individuals that can bring 50 or more people into a room at a time for a preliminary hearing.

Representatives of the immigration court community assert those latest efforts are too little and too late.

The DoJ agency's action falls short of that sought by judges, lawyers, and prosecutors in an open letter issued Sunday asking the Justice Department division to close the courts because of the contagion. That letter was signed by the National Association of Immigration Judges, the American Immigration Lawyers Association, and the American Federation of Government Employees, which represents prosecutors.

"Our demand for suspending non-detained masters is already last-century," A. Ashley Tabaddor, president of the National Association of Immigration Judges, said in an interview. The union represents hundreds of judges in immigration courts across the country. "Because of the nature of this development, every hour, every day is basically the equivalent to years of delay," Tabaddor said.

EOIR spokeswoman Kathryn Mattingly told Bloomberg Law on Monday that the agency "continues to evaluate the information available from public health officials to inform the decisions regarding the operational status of each immigration court."



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All non-detained aliens' master calendar hearings scheduled 03/16-04/10 are postponed. Usual operations for filings except Seattle. All other hearings proceeding.

10:49 PM · Mar 15, 2020 · [Twitter Web Client](#)

Delayed Response

The agency initially responded to the immigration judges' pleas on March 13, announcing it was halting the mass hearings in several large U.S. cities, but that step too was immediately met with backlash from the court community, which said it was already lagging the spread of the coronavirus.

The Justice Department acted two days after the World Health Organization declared the viral outbreak a pandemic and late on the same day President Donald Trump designated it a national emergency. There are more than 4,000 confirmed cases in the U.S. and 73 deaths, according to data compiled by Bloomberg News.

The federal Centers for Disease Control and Prevention on Sunday recommended postponement of in-person gatherings of 50 or more people for the next eight weeks, unless they "can be carried out with adherence to guidelines for protecting vulnerable populations, hand hygiene, and social distancing."

The union on March 12 had asked EOIR Director James McHenry to follow other state and federal courts across the country taking action to limit the spread of the coronavirus. That letter came after the EOIR ordered taken down posters the judges had put up with information about the virus, saying the judges didn't have the authority to do so. The agency soon relented and allowed the posters to be put up again.

New Demands

The disagreement has heightened an already tense relationship between the Justice Department and the immigration judges association, which the DoJ petitioned to decertify last year. The union is fighting that effort.

The demands to close the courts entirely are the most stringent yet, but they're measures the judges, lawyers and prosecutors say are necessary to protect the well being of everyone in each courthouse.

"No doubt, closing the courts is a difficult decision that will impose significant hardship for those in the Migrant Protection Protocols and detained Respondents. But these are extraordinary times," they wrote. The Migrant Protection Protocols is the Trump administration program that returns some individuals entering the U.S. to Mexico until their immigration hearing.

Under the new guidance from EOIR, those hearings, which bring 100 to 120 individuals back to the U.S., are still in place, Tabaddor said. That kind of a setting is exactly what the CDC is warning against, she said.

The EOIR hasn't indicated the remaining hearings will follow those CDC guidelines.

"We are mindful that the postponement of hearing for two to four weeks is a pretty drastic move," Tabaddor said of the new request. "But when you look at the health risks and life and death decisions that are being made, it really was a decision that had to be made to put people's lives first and hearings second."

(Updates with Executive Office for Immigration Review comment)

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