

# Immigration courts in 'chaos,' with coronavirus effects to last years

[Tal Kopan](#) May 18, 2020 Updated: May 18, 2020 4 a.m.

## Politics



1of5 Judge Dana Leigh Marks works from her Mill Valley home during the shutdown. Immigrant advocates are worried about delays in federal asylum hearings caused by coronavirus concerns. Photo: Jessica Christian / The Chronicle



2of5Attorney Erin Quinn says the Justice Department should work closely with immigrants' lawyers to prioritize cases.Photo: Carlos Avila Gonzalez / The Chronicle



3of5 Judge Dana Leigh Marks, with her dog Joker, has been working from her Mill Valley home. Photo: Jessica Christian / The Chronicle

WASHINGTON — Raquel and her sons fled gang threats in El Salvador, survived the weeks-long journey to the U.S., and then endured the Trump administration's 2018 separations at the southern border.

This month, she was finally going to get her chance to convince an immigration judge in San Francisco that she should be granted permanent asylum in the U.S., ending the agony of having to prepare for her court date by reliving the danger in her native country and her weeks of detention at the border.

Thanks to the coronavirus, she will have to endure the wait for three more years.

"It's really traumatizing, because I have to keep telling them the same thing,"

Raquel said. "I thought I had gotten over everything that had happened to me ... but every time I remember, I can't help crying."

Raquel's case is one of hundreds of thousands in the immigration courts that are being delayed by the pandemic. The courts, run by the Justice Department, have been closed for health reasons in the same way that much of U.S. public life has been on hold. But many of those who work in the system say the Trump administration has handled the shutdown in an especially haphazard manner, increasing the stress on judges and attorneys in addition to immigrants and making it harder for the courts to bounce back.

"There isn't a day that goes by that there isn't mass chaos behind this veil of business as usual," said Ashley Tabaddor, president of the National Association of Immigration Judges.

The Justice Department began postponing hearings for immigrants who are not in detention on March 18, and the delays have been extended every few weeks. Hearings are now set to resume June 15. But many courts technically remain open, including the one in San Francisco, with frequently changing statuses announced on social media and a website. It also took weeks for all judges to get laptops that would allow them to work remotely, said Tabaddor, who hears immigration cases in Los Angeles.

The scattershot communications make it difficult to prepare for if and when the hearings are held, immigrants say. And it's worse for those who have no lawyer who can help navigate the changes. About one-third of immigrants with pending cases have no representation, according to Justice Department [statistics](#), and missing a hearing is grounds for deportation.

The agency's [inspector general is investigating](#) the handling of the courts during the pandemic.

The Justice Department says it is being proactive in balancing safety with immigrants' rights. A spokeswoman said the agency is "deeply concerned" for the health of its staff and the public.

In a recent [legal filing](#), the director of the immigration courts, James McHenry, said a "one size fits all" approach to court closures and procedures wouldn't work, given varying situations at different locations.

With postponements happening on short notice, most immigrants fighting deportation feel they must prepare for court even if pandemic-caused delays seem likely. But doing so can force them to revisit the terrifying situations they say they came to the U.S. to escape.

None who spoke with The Chronicle said they wanted to risk their health by keeping the courts open. But they and their attorneys said they wished the administration was doing more to take immigrants' and staffers' needs into account.

Because the immigration courts already have a backlog of more than 1 million cases, it can take years for an asylum applicant such as Raquel to go before a judge. In the meantime, they build lives here, knowing that can be yanked away if they're ordered deported.



Raquel and others whose hearings have been postponed won't go first when the courts reopen — they go to the back of the line. The alternative for the immigration courts would be a logistical nightmare of rescheduling everyone else's hearings, which are now booked years in advance.

The Trump administration ended the practice of prioritizing cases of criminal immigrants or recent arrivals, and has curtailed judges' ability to simply close the case of a low-risk migrant less deserving of deportation, which would clear court schedules for more serious cases.

The Justice Department declined to say how many hearings have been postponed because of the pandemic. But a nonprofit statistics clearinghouse [estimated](#) that the government shutdown of 2018-19 resulted in the cancellation of [15,000 to 20,000 cases per week](#).

Raquel's case is emblematic of the thousands that are now in limbo. The Chronicle has agreed not to use her real name out of her concern for her safety, in accordance with its [anonymous sourcing policy](#).

Raquel says she came to the U.S. in 2018 because a gang in the area of El Salvador where she lived threatened her family after her two sons refused to

join.

She was among the immigrant families that were forcibly separated at the border. She spent a month and a half apart from her teenage son as she was shuffled between detention centers and jails. She says she endured numerous indignities, including having to shower in front of guards and being shackled by her wrists and ankles.

“It was the most bitter experience I’ve ever had,” she said in Spanish.

After finally being reunited with her son and released, Raquel rejoined her husband and other son who had come here previously, settling in San Francisco. She was ordered to wear an ankle monitor, which again made her feel like “a prisoner.”

“I had never felt so hurt like I did in this country, which hurt me so much just for crossing a border illegally,” Raquel said. “That was the sin and the crime that we committed, and we paid a high price.”

Raquel spoke with The Chronicle before receiving word that her May hearing was canceled. She and her attorney had felt forced to prepare despite a high likelihood of postponement, just in case the Justice Department forged ahead.



San Francisco attorneys who are working with immigrants during the pandemic say it is an acute challenge. Stay-at-home orders complicate preparing for cases that could have life-and-death consequences for those who fled violence back home.

## Inside the newsroom

**Anonymous sources:** The Chronicle strives to attribute all information we report to credible, reliable, identifiable sources. Presenting information from an anonymous source occurs extremely rarely, and only when that information is considered crucial and all other on-the-record options have been exhausted. In such cases, The Chronicle has complete knowledge of the unnamed person's identity and of how that person is in position to know the information. The Chronicle's detailed policy governing the use of such sources, including the use of pseudonyms, is available on [SFChronicle.com](https://www.sfchronicle.com/policy).

Difficulties include trying to submit 1,000-page filings from home, needing to discuss traumatic stories of domestic and sexual violence with immigrants who are sharing one-bedroom apartments with 10 other people, and navigating courts' changing status on Twitter.



“It’s taking an already not-user-friendly system and spinning it into chaos to the extent that even savvy practitioners don’t know how to get information, let alone the applicant,” said Erin Quinn, an attorney in San Francisco with the Immigrant Legal Resource Center.

She added, “The stakes are high, and at the same time, a comment I got yesterday from a practitioner was, ‘I’m tired of trying to figure out what to do with my practice based on tweets.’”

Judges and court staffers are also frustrated. On March 22, an unprecedented partnership was formed among the unions representing Immigration and Customs Enforcement attorneys who serve as prosecutors in the courts, judges and the association for attorneys who represent immigrants. They [wrote a letter](#) to the Justice Department demanding it close all the courts, not just postpone hearings for immigrants who are not in detention. The agency later expanded the ability of attorneys to appear by telephone and for some judges to work from home.

Even now, however, the Justice Department is requiring some judges and staff to come in to court to handle cases of immigrants who are being detained — those hearings have not been canceled — or to process filings.

“It is very, very upsetting. Employees do not feel like they are, No. 1, being protected and, No. 2, you don’t feel respected and valued,” said Immigration Judge Dana Leigh Marks, president emerita of the judges’ union.

Marks and Tabaddor say it’s part of a Trump administration pattern of stripping immigration judges of their independence at the expense of fair proceedings— an example of “haste makes waste,” Marks said. The Justice Department has set performance metrics to push judges to complete more cases, and Trump’s attorneys general have issued rulings that made it more difficult for judges to prioritize their caseloads.

The Justice Department, for its part, says it is making the courts more efficient. In November, McHenry testified before Congress that his agency had “made considerable progress in restoring (the courts’) reputation as a fully functioning, efficient and impartial administrative court system fully capable of rendering timely decisions consistent with due process.”

Quinn, the San Francisco attorney, said the Justice Department should work more closely with immigrants’ lawyers like Raquel’s to prioritize cases that are ready to move forward.

“Everything this administration has done to speed up or deal with the backlog are actually actions that limit the meting out of justice in the courts, which even before this crisis have been gumming up the system further,” Quinn said. “We will see the impact of that now as we try to come out of this crisis.”

Meanwhile, for immigrants like Raquel, the wait will continue. Even with the hardship, she says coming to the U.S. was worth the risks.

“It’s about protecting my children,” she said. “I’ve always told my sons, if God let us get here, they have to take advantage of it. ... In my country, someone walks down the block and they get assaulted or kidnapped and nobody ever finds them. But not here. Here you feel safe.”

*San Francisco Chronicle staff writer Alexei Koseff contributed to this report.*

*Tal Kopan is The San Francisco Chronicle’s Washington correspondent. Email: [tal.kopan@sfchronicle.com](mailto:tal.kopan@sfchronicle.com) Twitter: [@talkopan](https://twitter.com/talkopan)*

## Sign up for Political Punch newsletter

Politics from a Golden State perspective.

By subscribing, you agree to our [Terms of use](#) and acknowledge that your information will be used as described in our [Privacy Policy](#).