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Pace of Chicago immigration court slows to a crawl as record numbers navigate system



U.S. Citizenship and Immigration Services' Chicago field office at 536 S. Clark St. Court officials have said that at the end of fiscal 2017, Chicago immigration court had more than 25,000 pending cases in its system. (Jose M. Osorio / Chicago Tribune)

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The woman seeking asylum in immigration court in Chicago has a story as harrowing as they come.

She was orphaned at 13 when her parents were killed in the mid-1990s by a criminal gang that wanted her family's farmland. Nearly 20 years later, her brother was slain by members of the same gang and her husband beaten nearly to death, sending her fleeing with two young daughters from Honduras to the Texas-Mexico border.

Chicago lawyer Abdus Samad Pardesi wants to help the woman he refers to by the pseudonym "Rosa" for her safety, but he's going to have to wait.

After preparing for a hearing multiple times in the last three years, the case he picked up pro bono in 2015 now has another date before a judge — in 2019.

"She walked in and saw her mother shot to death on the kitchen floor," Pardesi said. "Every time she has to talk about that it's really emotionally difficult for her."

Sometimes lost in the blur of statistics on the immigration court here is the fact it now has the second-longest average time to dispose of a case in the United States: more than 1,000 days.

According to data collected by the Transactional Records Access Clearinghouse at Syracuse University, which compiles immigration data across the country including on caseloads, the average wait time as recently as 2010 for a case to be processed in immigration court in Chicago was a little over one year.

But it has increased each year since. By 2014 it was 733 days, and in the federal fiscal year that ended this fall, it had swelled to 1,019 days.

That figure has pushed Illinois to second among the 50 states in lag times behind only Colorado, but Gail Montenegro, a spokeswoman for the Chicago court, said that sometimes there are reasons for the delays other than a clogged bureaucracy. The complexity of some cases means it takes longer to process many cases, while others are handled relatively quickly.

“When looking at the average length of time it takes to resolve a case, it is important to note that average processing times do not represent the unique factors of each case,” Montenegro said. “As an average, they do not provide information about the group of cases that take a relatively short time to complete, nor do they provide information about those that take a longer time to complete.”

Court officials have said that at the end of fiscal 2017, Chicago’s immigration court had more than 25,000 pending cases in its system. Leaders of the federal Executive Office for Immigration Review, which is part of the Department of Justice, have said the number of pending cases nationally has tripled in recent years, leaving them trying to limit as many inefficiencies as possible.

That has included reacting to the priorities of the Trump administration, which has directed the courts to concentrate on those people in the system with criminal backgrounds who are detained, potentially marking them for quicker removals from the U.S.

Pardesi’s client, Rosa, who lives with her husband’s sister, is not detained.

So when her second date for a hearing on the merits of her case came around in April 2017, Rosa was told her case was being bumped in favor of one involving someone in custody. The same thing happened in October, said Pardesi, a lawyer at the Chicago firm of Kirkland & Ellis who normally does white-collar internal investigations for corporate clients.

“I just said I can’t believe this keeps happening,” Pardesi recalled. “How is this possible?”

And with Trump’s emphasis on making sure authorities are aggressively rounding up those who are in the country without the proper paperwork, there is no letup in sight, immigration advocates said.

In the five-state area that includes the Chicago region, arrests and deportations showed a significant uptick in the fiscal year that ended Sept. 30. Statistics released by Immigration and Customs Enforcement officials in the agency’s Chicago field office showed arrests increased to

8,604 from 7,055 last year. Removals more than doubled, to 5,327 from 2,326 last year, the statistics show.

In December, the Department of Justice said it was committing to be more efficient in handling cases, noting it had added 50 immigration judges since last January and plans to add dozens more.

The department's Executive Office for Immigration Review "has already begun to see the effects of this commitment, and — with the same dedication from EOIR staff, attorneys, and judges — can further work toward realizing our goal of cutting the pending caseload in half by 2020," the office's acting director, James McHenry, said in a statement.

Lawyers who work in the system in Chicago said court officials have their work cut out for them.

"In 2021, I have a hearing scheduled already," said attorney Dario Castaneda. "What do you say to your client — sit tight? For four years?"

Castaneda has handled cases of people who have appeared before a new two-judge "detained detail" created in response to the Jan. 25 Trump executive order that made detained immigrants who are in the country illegally the top priority for deportation. Those judges are pulled from the regular rotation to handle cases involving the detained for one month.

"Is that helping? I think it's too early to say," Castaneda said. A bigger problem, he said, is the flooding of the system with the arrests of people with little to no criminal record at all.

He said some of them entered the system after infractions such as driving without a license. "So when you're saturating the system with cases that are not that severe, then no," he said, the new detail "is not going to make a dent."

As for the delays in processing cases, Castaneda said from his clients' perspective, it's a mixed bag.

Some want the time to get their papers in order, or they have a work permit and can make money while their case progresses and before they are removed from the U.S. Others are torn about it, he said, including one man with a work permit but with a wife and children in El Salvador who could potentially join him if he gets to stay.

What is certain is that as the system grinds to its slowest pace in years, those in the system and their attorneys will be left to realign their expectations. Pardesi said the slow pace of the pro-bono case "certainly hinders my ability and the ability of other attorneys in my shoes to do this and take on these types of cases, although it's not about me."

Rosa will make do, he said, at least knowing her daughters are in school here and are safe for now.

“But it’s like the feeling you have after you take a test,” Pardesi said. “The uncertainty of not knowing whether you passed or failed — you feel like you just want to know at this point.”

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