



June 17, 2019

Growing Support for an Independent Immigration Court

The National Association of Immigration Judges (NAIJ) welcomes the mounting support for an independent Immigration Court. With each new prominent regional and national bar association that acknowledges the structural defect of housing our court within the U.S. Department of Justice, a law enforcement agency, the pressure to address the need for greater integrity becomes more urgent. Immigration Judges have been placed in the untenable position of having to choose between honoring their oath of office against ensuring their continued employment. Problematic agency policy decisions such as the imposition of quotas and deadlines, micromanagement of individual dockets, and unilateral insertion of the Attorney General into pending cases, have resulted in a fatally flawed system.

NAIJ strongly advocates for the creation of an independent Article I Court in order to protect Immigration Judges from any effort of any administration to exercise undue influence over their decision-making authority. The rulings made must reflect solely the application of the laws established by Congress to the individual facts of the individual case. The use of the Immigration Court and Immigration Judges as a law enforcement policy tool directly conflicts with our American judicial principles. Any executive branch policy prerogative must stop at the doors of the Immigration Court. As the trial-level tribunal which must neutrally build the administrative record, evaluate the evidence, and draw legal conclusions, devoid of bias or preconceptions, Immigration Judges can no longer serve as an extension of the authority of our country's Chief federal prosecutor.

NAIJ strongly disputes any assertion that the current dysfunctional state of the Immigration Court is attributable to our nation's Immigration Judges. The burdens placed on Immigration Judges, including indefensible and arbitrary quotas and deadlines as a condition of continued employment; severe restrictions on the use of and availability of in-person interpreters; severe shortages of support staff, office and courtroom space; an inadequate ratio of judicial law clerks to judges; drastic reductions in training and continuing legal education opportunities; constant docket shuffling and reprioritization of cases to cater to political whims; unprecedented interference and micromanagement of individual Immigration Judge docketing and calendaring practices; and the assignment of overwhelming caseloads, have led to the untenable condition

of today's Immigration Courts. Despite these most trying times, our nation's Immigration Judges have remained committed to their oath of office and have performed to the best of their individual abilities.

NAIJ welcomes transparency and accountability for Immigration Judges under any newly-created judicial model. The existing agency complaint process and other similar efforts to scapegoat Immigration Judges as the source of the dysfunction of the Court is falsely-placed criticism leveled to deflect attention from the fatally-flawed structural design and operation of the Immigration Court. Such a diversion from the true causes of the current dysfunction detracts from the needed efforts to systematically reform the Immigration Court as a whole to cure its structural defects.

NAIJ renews its call for system-wide accountability, transparency, and independence of Immigration Judges as neutral arbiters. In order to achieve those goals and offer an enduring solution to the persistent problems which have plagued our system, an Article I Immigration Court must be established immediately.