

The Houston Chronicle

ACLU sues Trump administration over 'indefinite' detention of asylum seekers

By [Lomi Kriel](#)

Updated 4:26 pm, Thursday, March 15, 2018

An immigration judge twice agreed that Anslly Damus deserved refugee protection after facing political persecution and death threats in Haiti. But President Donald Trump's administration appealed those rulings, keeping Damus, a former ethics teacher, imprisoned for more than 16 months.

The American Civil Liberties Union and other groups filed a federal lawsuit Thursday challenging such a practice of jailing asylum seekers with credible cases for months on end. Advocates say it is part of the government's increased crackdown on the asylum process, which top Trump officials have criticized as rife with abuse.

"The Trump administration wants to make life so miserable for asylum seekers that they give up and return to their home countries, even at the risk of torture or death," said Michael Tan, an attorney with the ACLU's Immigrants' Rights Project, in a statement. "The administration is wielding indefinite detention as a weapon to deter future asylum seekers, which is both cruel and unconstitutional."

The Department of Homeland Security declined comment, citing the pending litigation.

The American Civil Liberties Union is suing the Trump administration, claiming it is violating immigration laws and its own policies by detaining immigrants who have a solid case for seeking asylum in the United States. (Mar. 15)

Media: Associated Press

The class-action lawsuit was filed in federal court in Washington, D.C. on behalf of nine detained asylum seekers from Cuba, El Salvador, Venezuela and other countries, who requested asylum at official U.S. ports of entry.

According to the suit, five Immigration and Customs Enforcement field offices, including the one in El Paso, have essentially stopped releasing asylum seekers since early 2017.

All of the plaintiffs in the lawsuit passed a credible fear interview, the initial step to receiving asylum. The protection is granted to people who have suffered persecution, or fear they will, because of their race, religion, nationality, membership in a social group or political opinion.

None had criminal histories or a record of violence.

It can take several years for asylum claims to be adjudicated in the backlogged system. Immigration courts have a record 632,000 pending cases, according to federal statistics. The U.S. Citizenship and

Immigration Services, which processes claims for those who legally entered the country, has more than 311,000 cases.

The Department of Homeland Security's own 2009 policy states that asylum seekers who don't pose a flight risk or a danger to society should be granted humanitarian parole and released while they await the outcome of their cases.

But the ACLU charges that the administration is instead "categorically jailing them indefinitely," violating not only its own policy, but the U.S. Constitution and international treaties governing refugees.

The practice is "plainly motivated by the Trump Administration's goal of deterring other asylum seekers."

A New York federal district court in November found the government had wrongly issued "blanket denials" to asylum seekers in Buffalo and ordered that facility to review their requests for release.

The practice is a stark turnaround from previous policy. In 2013, nine out of 10 asylum seekers in the five field offices were found to meet the government's criteria and released from immigration custody, according to the lawsuit. In 2017, that dropped to nearly zero. More than 1,000 asylum seekers are estimated to have been denied release.

Other plaintiffs cited in the suit include Alexi Montes, 18, who was beaten and held at gunpoint for being gay in Honduras. Abelardo Asensio Callol, 30, sought asylum after the Cuban government persecuted him for refusing to join the Communist Party and attend a rally honoring the late Fidel Castro.

A man from El Salvador whose name was not released sought asylum after a gang threatened to kill him and his family and extorted him for money. He has been detained for nearly two years in El Paso.

Advocacy groups say it is one of many changes the government has made over the past year to deter migrants from coming here to seek help.

Sessions has been at the helm of some of the most significant, including ordering prosecutors last year to ramp up criminal prosecutions for migrants who illegally cross the border. Advocates say that results in a de-facto policy of family separation, and the ACLU filed a lawsuit this month arguing hundreds of asylum-seeking families have been unlawfully split up as a result.

Many of the policies have been directed at Central American families and children, who make up the fastest-growing segment of migrants crossing the southern border. Federal laws protecting children make them difficult to quickly deport.

The Trump administration has repeatedly blamed such "loopholes" for an increase in migrants seeking refuge here. In a speech in Austin in October, Attorney General Jeff Sessions said the current asylum system is too easy to defraud.

"President Trump is going to fix that," he said. "The President's plan to close the loopholes will stop the incentive for false asylum claims."

Groups such as the Center for Immigration Studies that support reducing immigration say detaining asylum seekers is necessary because many have fraudulent claims, but once they are released they skip out on their hearings and are difficult to find.

Jessica Vaughan, director of policy studies at the group, cited 2014 congressional testimony finding that roughly 30 percent of a random sampling of 2005 asylum claims were found to be valid.

She noted that the number of people requesting asylum at the border rose from about 5,000 in 2009 to nearly 93,000 in 2016.

"It's because people caught on to the 'catch and release' policy and took full advantage of it," she said.

Advocates say it is the increased violence in Central America in that period, making El Salvador and Honduras two of the world's most dangerous countries, that spurred the increase in asylum seekers.

In the case of Damus, the Haitian asylum seeker, he criticized a local politician in front of his students, calling the man corrupt. A gang loyal to the official attacked him on the way home that day, setting his motorcycle on fire. They threatened to kill him.

Now the 41-year-old is detained in an immigration facility in Ohio with no outside recreation and where he is the only French speaker.

"I have not breathed fresh air or felt the sun on my face, and I never know if it is cold or hot outside, if the sun is out, and if the seasons are changing," he said in the lawsuit.

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