



NATIONAL

Immigration Judges Face Challenges As Cases Pile Up

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NPR's Noel King speaks with the president of the National Association of Immigration Judges, Ashley Tabaddor, about the challenges facing immigration judges as they deal with a backlog of cases.

NOEL KING, HOST:

All this week, we've been talking to people who live along the border and are affected by the migrant crisis. We've brought you the voices of activists and lawyers doing what they can to ensure that asylum-seekers get a fair shot. But the fate of those people ultimately lies in the hands of immigration judges.

Judge Ashley Tabaddor is president of the National Association of Immigration Judges. She says the Remain in Mexico policy, which makes migrants stay in Mexico while they wait for their day in U.S. court, is contributing to an unprecedented backlog of cases.

ASHLEY TABADDOR: The numbers are staggering. We have never seen these types of backlogs, and I've been on the bench for about 14 years. We have had challenges with

the backlogs, but this has never been the case where we are facing these types of numbers. And the discrepancy is anywhere between two or 300 cases on a judge's docket to four to 5,000 cases.

KING: Oh, my God. Those numbers are extraordinary. What would you say is the biggest challenge facing judges? Is it time? Is it feeling like you're never going to get to the end of your caseload?

TABADDOR: Well, the biggest challenge is frankly the fact that our immigration court system is situated within the Department of Justice. And because of that, we have been treated as a law enforcement tool since our inception, and never quite as much as we have in the last few years. So what that has done is disempower the judges. It has allowed the agency to use the judges essentially as an extension of a political messaging tool.

So the frustration that I hear from our judges is that we have basically no control over our daily lives. They call and reach out to us on a regular basis. And they are just burned out. So, yes, our judges are just putting in the hours and doing the best they can. But we are really facing unprecedented times and pretty surreal decisions by the agency. So even in the last few months and - so in the last fiscal year, we have now been facing quotas and deadlines on judges, something that you would never do to a judge because you would not place a judge's financial interest into the mix of his or her decision when it comes to a case.

KING: Wait, explain that. I'm sorry - let me clarify what you're saying. You're saying that you are made to meet a quota. And if you don't meet the quota, you will not get your paycheck?

TABADDOR: We are made to meet a quota as well as deadlines. There are about eight different numerical measures that we have to meet during our rating period, which is generally two years. But this latest rating period is one year because they introduced this concept last October. So during our rating period, during this one year, we're expected to complete 700 cases. And we're expected to do a lot of these within specific

timelines. It really is very, very dire circumstance for our judges.

KING: And let's say that a judge does not meet his or her quota. What happens? You mentioned financial interests. Does the judge lose his or her job?

TABADDOR: So the judge may lose his or her job because, at the end of the rating period, the judge would have to then justify why those numbers have not been met. And the agency will have to determine whether the judge's justification is appropriate or not. And for the agency to impose a singular quota on all of us, as if we are all interchangeable, is absolutely mind-boggling.

KING: We are in El Paso, looking at how this is playing out. What are you hearing from immigration judges in El Paso in particular?

TABADDOR: So I understand that El Paso is going to be, in large part, now responsible for the Remain in Mexico cases. And our judges have reached out to us and shared with us their concerns that they're being told they're going to have to schedule or they're going to be expected to handle 50 cases in the morning, 50 cases in the afternoon and that those numbers are just, frankly, staggering. And it's just, you know, exhausting to have to go through those types of numbers on a daily basis.

So the expectation is that the numbers are going to be quite high, that the judges are expected to be on the bench all the time and that they are just expected to go through these quickly and swiftly. And that's been one of the big challenges, is that they have essentially sped up the process in the guise of trying to attack the backlog. But speeding up the process really places the judge in a very untenable position of having to uphold his or her oath of office while being worried about whether they're meeting quotas and deadlines.

KING: Let me detangle a couple of things that you said there. I'm wondering about the specific challenge that Remain in Mexico poses to the judges in El Paso. People are now waiting on the other side of the border for their day in court. How does that add to a judge's workload?

TABADDOR: So what has happened oftentimes with the MPP cases is that many of the individuals come in without counsel. And so that places a much greater burden on the judge because the judge will now have to make sure that each case is given a lot more time, that you go through the individual person's particular situation in much more detail.

Immigration judges have a responsibility under the law to make sure that the record is fully developed. And ultimately, the judge is responsible for making sure that the parties before them are afforded a fundamentally fair hearing. But when you're dealing with these large numbers of people, and particularly when you do not have counsel or good - and especially if you don't have good counsel - then it becomes very, very problematic.

KING: You mentioned a number of times that we are in an unprecedented period. Is that specific to a particular administration? Is that specific to the Trump administration? Or is this a problem that's been brewing through multiple administrations for many years?

TABADDOR: That's a really good question. So the way I explain it is that the immigration court is just structurally fundamentally flawed. We are situated in a law enforcement agency. So a lot of the conflicts of interest and the challenges that we've been facing has preexisted this administration. But what I'm talking about when I say unprecedented is that, on all of those fronts where a conflict of interest preexisted or potentially could have existed, we have now crossed all the lines.

(SOUNDBITE OF EXPLOSIONS IN THE SKY'S "FIRST BREATH AFTER COMA")

KING: That was Ashley Tabaddor. She's president of the National Association of Immigration Judges.

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