



---

Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | [www.law360.com](http://www.law360.com)  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | [customerservice@law360.com](mailto:customerservice@law360.com)

---

## AILA Nabs Some Immigration Judges' Names In FOIA Fight

By **Dave Simpson**

Law360, New York (November 20, 2017, 6:37 PM EST) -- A D.C. federal judge ruled Friday that the names of 14 immigration judges who've been subject to numerous complaints should be unredacted by the Executive Office for Immigration Review, granting a partial win to the American Immigration Lawyers Association.

U.S. District Judge Christopher R. Cooper said that the names of 20 of the 34 judges requested by AILA should remain undisclosed under a Freedom of Information Act exemption allowing redaction of information that would constitute "a clearly unwarranted invasion of personal privacy."

But in the case of the other 14 judges, Judge Cooper sided **with AILA**, finding that the public interest in disclosure of the withheld information outweighs the judge's privacy interest.

"On the whole, the court believes that the balancing of public interests and privacy interests typically weighs towards disclosure in 'the case of a sitting judge with a substantial number of serious and substantiated complaints,' and against disclosure in the case of a retired judge with a small number of substantiated complaints," Judge Cooper said Friday.

The ruling addresses the statuses and the complaints against all 34 judges — who are currently identified through three-letter codes — explaining why each of their names should or should not be disclosed.

AILA filed its FOIA request for the complaints in September 2012 with the EOIR, which is the U.S. Department of Justice's arm overseeing the immigration courts. The EOIR produced some 16,000 pages of documents, redacting the judges' names and all other identifying information — such as pronouns, the judges' workplaces and related media articles — under the FOIA exemption.

AILA sued, arguing that the names of all 201 judges should be unredacted.

The district court decided in favor of the government's redactions in December 2014, but the D.C. Circuit **reversed and remanded**, ruling that the government could not prove that all immigration judges' personal privacy interests trump the public interest in broad strokes and would have to evaluate each one on a case-by-case basis.

The EOIR thereafter conducted an individualized analysis, arriving at the same conclusion by evaluating the merits of each complaint, a judge's disciplinary history and the agency's response to the complaint, among other factors. In its motion for summary judgment, the government bolstered its analysis of each judge's case with declarations from the executive vice president of the National Association of Immigration Judges, Judge Denise Slavin, who argued that identifying the judges could pose national security threats, unduly prejudice and defame them, and harm the integrity of immigration courts.

After the remand, AILA requested the names of only 34 of the 201 judges, narrowing the scope to those with the most serious disciplinary records.

AILA is represented by Melissa Crow of the American Immigration Council.

EOIR is represented by Assistant U.S. Attorney Daniel P. Schaefer.

The case is American Immigration Lawyers Association v. Executive Office for Immigration Review et al., case number 1:13-cv-00840, in the U.S. District Court for the District of Columbia.

--Additional reporting by Nicole Narea. Editing by Breda Lund.

---

All Content © 2003-2017, Portfolio Media, Inc.

[https://www.law360.com/immigration/articles/986638/aila-nabs-some-immigration-judges-names-in-foia-fight?nl\\_pk=64b4ed1a-14e9-4422-be5a-5d8b3cd1eb0d&utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=immigration](https://www.law360.com/immigration/articles/986638/aila-nabs-some-immigration-judges-names-in-foia-fight?nl_pk=64b4ed1a-14e9-4422-be5a-5d8b3cd1eb0d&utm_source=newsletter&utm_medium=email&utm_campaign=immigration)