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[OPINION](#)

## Op-Ed: Why I resigned as an immigration judge



Hundreds of migrants seeking asylum were held in a temporary pen under the Paso Del Norte bridge in El Paso, Texas, on March 28, 2019.

(Los Angeles Times)

By ILYCE SHUGALL

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I have been an immigration lawyer dedicated to fairness and due process for immigrants my entire career. In 2015, convinced that my 18 years of experience as an advocate would make me a good immigration judge, I applied for the job.

Most immigration judges are former attorneys from the chief counsel's office of U.S. Immigration and Customs Enforcement, former assistant U.S. attorneys or former attorneys from other federal government agencies. Former advocates are appointed less frequently, but I believed in the importance of having judges from varied backgrounds on the bench and therefore applied.

I made it through the application and vetting process and was appointed to the bench in September 2017. I resigned this March because I could no longer in good conscience work as an immigration judge in the Trump administration.

I knew when I joined the bench that there would be frustrations, as immigration courts are governed by the Justice Department and lack the independence of other courts in the federal judicial system. But nothing prepared me for the unprecedented, unfair and unworkable policies the Trump administration imposed on the courts and the immigration process.

I believed it was my job to ensure that all people who appeared before me understood their rights and had the opportunity to fully present their cases. I found the job fulfilling when I was hearing cases. I enjoyed learning about the lives of people from all over the world and analyzing complex legal issues. It was also heartbreaking. I heard stories of horrific violence, terror and pain. I was moved by the struggles and resolve of those who leave everything behind to seek safety and refuge, those who dedicate their lives to caring for family members, and those who overcome incredible obstacles to make a better future for themselves and their families.

In 2018, Atty. Gen. Jeff Sessions and the director of the Executive Office for Immigration Review, which oversees the immigration courts, began imposing quotas and performance metrics that affected the day-to-day function and independence of the judges. We were notified that all judges were expected to complete 700 cases a year to receive a satisfactory performance review. EOIR also published performance metrics for the judges that established specific timelines for adjudication of cases and motions.

During a conference of immigration judges in June 2018, agency leadership informed us that the quota policy would go into effect in October. Sessions, during his keynote speech at the conference, announced that he would be issuing his decision in the case of Matter of A-B-, which dealt with asylum claims based

on domestic violence. His decision to prohibit grants of asylum for victims of domestic violence and persecution perpetrated by other nongovernment actors was announced later that day. I left the conference extremely demoralized.

My colleagues and I felt the impact of the case quotas on our ability to render correct and well-reasoned decisions. My calendar was fully booked with cases through 2021. The judges in San Francisco, where I served, were told we could not schedule any cases in 2022 until our calendars showed that three cases were scheduled every day through the end of 2021.

This meant that the judges were forced to schedule at least two cases in one time slot (there being two slots a day) — regardless of whether it was possible to hear two cases in such a short time frame or whether this would allow a judge to consider fully the merits of each case, which often involved determining life or death issues.

This was the way to push us to complete 700 cases a year. Failure to hit the quota would also result in failing to meet other performance metrics. In August 2018, Sessions also issued a decision limiting continuances of cases in immigration court.

Shortly after we were told to hear three cases a day, we were also told we could not schedule interpreters for two different languages in each of the morning or afternoon sessions. We were told we needed to match languages or pair English-language cases with other languages, though we had no tools to assist us in coordinating languages.

The impact of these administrative policies, while bad on judges' morale and workloads, was worse for the immigrants appearing at court. The pressure to complete cases made me less patient and less able to uphold the constitutional protections required to properly adjudicate cases.

In addition to these policies, the Trump administration announced several new policy changes to limit the rights of noncitizens to apply for asylum. One was the "Remain in Mexico" policy, which required asylum applicants to stay in Mexico while awaiting their court hearings. Another was the administration's attempt to eliminate eligibility for asylum for individuals who did not present themselves at

a port of entry while simultaneously preventing asylum seekers from being processed at the ports of entry.

In November 2018, the EOIR director issued a memorandum to push through cases of “family units” on a fast track. These cases continue to be docketed and heard on an expedited basis. This policy prevents indigent noncitizens from having adequate time to secure counsel or evidence to support their cases. And it often leads to individuals being ordered removed without a hearing because clerical errors caused hearing notices to be sent to incorrect addresses.

As more policies were issued, it became clear that this administration’s attack on immigrants and the independence and functioning of the immigration courts would only get worse.

As I expected, the attacks continued. Since I resigned, the Department of Homeland Security has expanded expedited removal. Recently, EOIR began [using a video](#) to comply with federal regulations requiring that all noncitizens be advised of their rights and responsibilities in court. The video, which replaces in-person interpreters, will inevitably cause confusion and make it far harder for individuals to defend themselves.

Just last week, Atty. Gen. William Barr issued a decision that largely eliminates asylum eligibility for those facing persecution because of family ties. This ruling could affect thousands of legitimate asylum seekers fleeing violence in Mexico and Central American countries, as well as other parts of the world.

I expect the Trump administration’s relentless attacks against immigrants and the immigration system to continue. The way to limit the damage is to establish an independent immigration court that is outside the Justice Department. Until that happens, the immigration courts will be subject to the politics driving the administration rather than the principles of justice immigration judges are sworn to uphold.

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