



NATIONAL ASSOCIATION OF IMMIGRATION JUDGES

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To Whom It May Concern:

The National Association of Immigration Judges (NAIJ) is a voluntary organization formed in 1971 with the objectives of promoting independence and enhancing the professionalism, dignity, and efficiency of the Immigration Court. We are the recognized collective bargaining representative of the more than 250 Immigration Judges located in 58 courts throughout the United States.

Our nation's Immigration Court system currently faces overwhelming case backlogs and lengthy delays. Reforms that would reduce the length and number of hearings associated with immigration cases would significantly improve our overall functioning, aid in assuring due process and enhance efficiency.

It is our experience that when noncitizens are represented by attorneys, Immigration Judges are able to conduct proceedings more expeditiously and resolve cases more quickly. For the reasons discussed below, a higher percentage of attorney representation, through vigorous pro bono programs or appointed counsel initiatives would increase court efficiency and ultimately result in cost savings.

- From our experience, we believe the following to be true: Unrepresented individuals are more likely to request bond hearings and appeal bond decisions in cases in which they are clearly ineligible for bond (e.g, arriving aliens or those subject to mandatory detention), sometimes wasting time that could have been spent pursuing an application for relief from removal. Legal representation also reduces the number and length of bond hearings for those who are eligible for bond.
- Unrepresented individuals generally require repeated continuances over the course of months or even years. With representation, such individuals are likely to require fewer continuances:
 - To allow them to look for legal representation,
 - To allow them, especially those who are detained, to get the necessary information to respond to the charges against them,
 - To allow them time to complete applications for relief,

- To allow detained individuals to apply for relief after delays in receiving necessary application forms while in detention,
 - To allow them to process applications for relief with agencies other than the Court (e.g, a U visa or T visa petition for residency filed on their behalf with the Department of Homeland Security),
 - To allow them, especially those who are detained, to collect supporting documentation for their applications for relief without assistance, and
 - To allow them to obtain and present witness testimony in support of their application.
- Unrepresented individuals who tend to appeal their cases due to a lack of understanding regarding their legal rights or concerns about the fairness of their hearings would be less likely to appeal if they had been represented by counsel at their original hearings as they would have fully presented their cases in the first instance. Confidence in the trial court decisions would reduce the backlogs of cases before the Board of Immigration Appeals and the Courts of Appeals as the number of appeals would be likely to decline.
 - When competent counsel is present, Immigration Judges spend less time seeking to obtain clear and relevant testimony from respondents and/or their supporting witnesses as attorneys prepare them to testify and/or focus on relevant topics while testifying.
 - When competent counsel is present, Immigration Judges spend less time parsing applications for relief and other written submissions because such materials are likely to be better researched, better organized, more clearly written, and more easily understood if prepared by attorneys. This is particularly true in the case of unaccompanied minors, individuals with mental disabilities, and other individuals who are suffering from great emotional stress.
 - With representation, deserving individuals are more likely to make a timely request and receive prosecutorial discretion allowing Immigration Judges to remove the cases from their dockets at the earliest possible opportunity.
 - Represented individuals are less likely to pursue claims that do not have a legal basis, thus reducing the length and complexity of their proceedings:
 - If they have no viable form of relief from removal, they are more inclined to seek voluntary departure or even accept an order of removal,
 - They are less likely to seek forms of relief for which they are clearly ineligible,
 - They more readily resolve certain claims early in proceedings or stipulate to certain facts.
 - Represented individuals are more likely to show up for their hearings in Immigration Court, and thus less likely to receive *in absentia* removal orders. Reduction of *in absentia* orders would limit the number of cases that warranted reopening; it would

also minimize the need for Immigration and Customs Enforcement resources to be directed towards apprehending individuals with outstanding orders of removal.

The efficiencies of representation are even more dramatic in the context of detained cases. Detention costs are reduced significantly when cases are resolved more quickly, which is more likely with the assistance of attorneys. Simply put, detained individuals with representation are more likely to be prepared to proceed quickly through all aspects of their proceedings, from bond to final hearing, thereby reducing the total time they are detained and yielding significant cost savings.

Finally, the exploitation of the immigrant community by unethical notarios is well known. Robust programs to increase access to pro bono, low fee and/or appointed counsel for respondents would likely produce a significant reduction of that abuse as respondents would have greater access to attorneys who are subject to more stringent ethical standards and oversight.

For all these reasons, NAIJ strongly endorses initiatives which increase the likelihood that respondents in Immigration Court proceedings are represented by attorneys.

Very truly yours,

Dana Leigh Marks

Dana Leigh Marks, President