

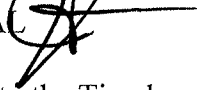


Office of the Attorney General

Washington, D. C. 20530

December 5, 2017

MEMORANDUM FOR THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

FROM: THE ATTORNEY GENERAL 

SUBJECT: Renewing Our Commitment to the Timely and Efficient Adjudication of Immigration Cases to Serve the National Interest

Our primary mission at the Department of Justice—as reflected in the first clause of our mission statement—is to “enforce the law and defend the interests of the United States according to the law.” Under my delegated authority, you, the men and women of the Executive Office for Immigration Review (EOIR), accomplish this objective by adjudicating immigration cases and interpreting and administering the immigration laws. Together, we have made significant progress since the beginning of the Trump Administration, but we want to build on this success to enshrine what the law contemplates and what the people desire—an end to unlawfulness in our immigration system.

We have brought on 50 new immigration judges since January 20, and expect to add over 60 more in the next six months. We surged resources to the border at the direction of the President—and completed approximately 2,800 more cases than we were projected to have otherwise completed. We are actively developing a long overdue e-filing system to pilot in mid-2018. Initial case completions rose in FY 2017 to the highest level since FY 2012. In accordance with the law, we are prioritizing the completion of cases and developing performance measures to ensure that EOIR’s mission of fairly, expeditiously, and uniformly administering the immigration laws is fulfilled.

But as you know, tremendous challenges lie before us. There are approximately 650,000 cases pending before the immigration courts. Although we showed signs of leveling off the increase in the non-detained portion of the backlog at the end of FY 2017, we nevertheless face a steady stream of criticism that we are overwhelmed and that the backlog is intractable. I strongly disagree—this challenge is not insurmountable, but it does require a concerted effort to address it.

While we continue to hire additional immigration judges and support personnel to address these challenges, we must all work to identify and adopt—consistent with the law—additional procedures and techniques that will increase productivity, enhance efficiencies, and ensure the timely and proper administration of justice. Whether you are an immigration judge who has a unique way to better handle dockets, or an administrative assistant who has a better process for handling the distribution of files in the office, we can all contribute something to improve the system. I, too, anticipate clarifying certain legal matters in the near future that will remove recurring impediments to judicial economy and the timely administration of justice.

It is imperative that we all recognize our extraordinary role in ensuring the faithful application of our duly enacted immigration laws while simultaneously ensuring the timely and

impartial administration of justice. Indeed, the manner in which cases are adjudicated has a direct impact on the sovereign interests of our nation. It not only affects the flow of illegal entries into the United States and the number of visa overstays, but also our national security, public safety, and the employment prospects and wages of the American people. It also furthers the national interest by ensuring that meritorious cases receive timely consideration while baseless cases are concluded expeditiously.

To that end, I expect you to ensure that the adjudication of immigration cases serves the national interest by supporting and adhering to the following principles:

- The immigration courts, the Board of Immigration Appeals, and the Office of the Chief Administrative Hearing Officer within EOIR are responsible for adjudicating cases and administering the immigration laws. We serve the national interest by applying those laws as enacted, irrespective of our personal policy preferences.
- The timely and efficient conclusion of cases serves the national interest. Unwarranted delays and delayed decision making do not. The ultimate disposition for each case in which an alien's removability has been established must be either a removal order or a grant of relief or protection from removal provided for under our immigration laws, as appropriate and consistent with applicable law.
- Meritless cases or motions pending before the immigration courts or the Board of Immigration Appeals should be promptly resolved consistent with applicable law.
- The efficient and timely completion of cases and motions before EOIR is aided by the use of performance measures to ensure that EOIR adjudicates cases fairly, expeditiously, and uniformly in accordance with its mission.
- The attempted perpetration of fraud upon the United States government in our immigration court system can lead to delays, inefficiencies, and the improper provision of immigration benefits. Therefore, any and all suspected instances of fraud should be promptly documented and reported to EOIR management, and any other agency with an interest in the identification of and response to such fraud (including the appropriate state bar(s) in cases of attorney misconduct), consistent with applicable law.

I expect all of you will carry out these principles capably and professionally in performing your duties, including in the preparation, adjudication, and completion of pending cases. Further, I am confident that, together, we will uphold the mission of the Department of Justice, we will maintain respect for the rule of law, and we will serve the national interest by ensuring the timely administration of justice in immigration proceedings.

This guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. The Deputy Attorney General or the Director of EOIR may issue further guidance, as appropriate, to ensure the achievement of the principles set forth in this memorandum.