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Contact: Jamie Horwitz, jhdcpr@starpower.net, 202/549-4921

Judges’ Union Files Grievance Over DOJ’s Interference with Judicial Independence and Violation of the Due Process Rights of Those Appearing before the Immigration Courts

Guatemalan Youth Ordered Deported Despite Philadelphia-based Federal Judge’s Decision to Delay Hearing

WASHINGTON -- The National Association of Immigration Judges, the union that represents the nation’s roughly 350 federal Immigration Judges, filed a formal grievance today seeking redress for the unwarranted removal of cases from the docket of a Philadelphia-based judge, United States Immigration Judge Steven A. Morley. NAIJ also is seeking a written acknowledgement from the Department of Justice’s Executive Office for Immigration Review (EOIR), which oversees Immigration Courts, that no case assignment or reassignment be conducted in a manner that interferes with a judge’s decisional authority. According to the Judges’ filing, EOIR subverted the judicial process, undermined Judge Morley’s decisional independence, and impugned his competence and integrity, by removing pending cases scheduled for decision in order to obtain an Agency determined outcome.

US Attorney General Jeff Sessions personally interceded in the *Matter of Castro-Tum* in January using the case to severely limit the authority of Immigration Judges to schedule and prioritize their cases, otherwise known as “administrative closure.” The matter was then remanded to Judge Morley to continue to preside over the proceedings.

At that remanded hearing, an attorney appeared as “friend of the court” on behalf of Castro-Tum. Finding that the legal notice of hearing was too rushed to proceed on that day, Judge Morley continued the case to assure adequate time for proper notice. Disagreeing with Judge Morley’s exercise of judgment to ensure that due process was observed, the Agency re-assigned the case to a supervisory judge who traveled from Virginia to Philadelphia to hear just this one case, presumably to assure that an *in absentia* removal order was issued.

Dozens of additional cases were also removed from Judge Morley's docket after he questioned the reliability of the addresses provided to the Court by the government on behalf of juvenile respondents, including Castro-Tum.

“The decisional independence of immigration judges is under siege,” said Tabaddor. “If allowed to stand, the Agency can simply forum-shop its cases for the outcome it wishes to achieve,” she added.

The grievance filed by NAIJ maintains that actions against Judge Morley, a well-known, respected impartial judge, violated the integrity of the Immigration Court proceedings. The NAIJ filing further states that EOIR’s actions undermined not only Judge Morley’s judicial independence and ability to properly manage his docket, but also threatens the ability of all Immigration Judges nationwide to fairly apply the immigration laws of the United States consistent with due process rights of all parties.

The National Association of Immigration Judges (NAIJ), founded in 1971, is a voluntary organization formed with the objectives of promoting independence and enhancing the professionalism, dignity, and efficiency of the Immigration Court.

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DISCLAIMER: *The author is President Emeritus of the National Association of Immigration Judges. The views expressed here do not necessarily represent the official position of the United States Department of Justice, the Attorney General, or the Executive Office for Immigration Review. The views represent the author’s personal opinions, which were formed after extensive consultation with the membership of NAIJ.*