

Politics

Trump Asylum Restrictions Hobbled by Judges on Both Coasts

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A Central American migrant holds an American flag near along the the US and Mexico border in Tijuana on Nov. 25.
Photographer: Tomas Ayuso/Bloomberg

Judges on both coasts of the U.S. dealt fresh blows to the Trump administration's restrictions on immigrants seeking political asylum, signaling that the president faces a long legal battle to seal the southern border even as he continues to stoke fear about threats to national security.

In separate lawsuits, federal judges in Washington and San Francisco on Wednesday blocked rules that make it harder for immigrants to seek protection in the U.S. from domestic and gang violence and other dangerous situations in their native countries.

The decisions show that the administration -- which has won few court victories over immigration policy since President Donald Trump took office in January 2017 -- is still struggling to win judicial approval of measures to reject and remove migrants who come to the U.S. to escape oppression and poverty. The Justice Department is expected to pursue appeals, probably all the way to the U.S. Supreme Court.



Central American migrants walk along a fence near the US and Mexico border in Tijuana on Nov. 25. Photographer: Tomas Ayuso/Bloomberg

While the administration argued that it's within the president's powers to rewrite ground rules for who qualifies for asylum and on what terms, Wednesday's decisions faulted Trump and the Justice Department for going too far and defying the will of Congress.

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In Washington, U.S. District Judge Emmet Sullivan deemed unlawful a deportation fast-tracking policy that allows immigration officials to generally reject asylum applications based on migrants' claims of violence in their homelands including sexual abuse, kidnappings and beatings. The administration contended it wasn't retreating from a longstanding U.S. commitment to protect people from persecution, but that asylum isn't meant for victims of "personal crimes."

Sullivan said in his order "there is no legal basis for an effective categorical ban" on domestic and gang

violence claims and he required the government to return to the U.S. some migrants who were deported and to provide them with new asylum hearings.

The Justice Department said it's reviewing its options for how to respond to the ruling.

“Under the laws passed by Congress, asylum is only for those who have a legitimate fear of persecution on the basis of their race, nationality, religion, political opinion, or membership in a particular social group,” spokesman Steve Stafford said in an emailed statement.



Central American migrants sit along the Tijuana River near the US and Mexico border in Tijuana on Nov. 25. Photographer: Tomas Ayuso/Bloomberg

In San Francisco, U.S. District Judge Jon Tigar extended his temporary order from November stopping the administration from automatically denying political asylum to immigrants who cross the U.S. border illegally. The administration argued that allowing applications for asylum only at official ports of entry isn't meant to deter migrants from seeking protection, but is aimed at streamlining the process and reducing a backlog of claims without merit.

U.S. to Seek \$5.8 Billion to Address Roots of Migrant Caravans

Tigar ruled that in the time since his Nov. 20 order, “the inconsistency between the new regulation and the

immigration laws has been stated more clearly.”

“The harms to those seeking asylum are also even clearer, and correspondingly the public interest more plainly supports” extending the November order indefinitely, he said. Tigar also said that it’s worthwhile to prevent “unnecessary deaths” of migrants attempting to cross the border between ports of entry, but that the Trump administration hasn’t shown how its policy addresses the problem.

Both rulings were victories for the American Civil Liberties Union, which spearheaded the lawsuits and assailed Trump’s policies as an effort to gut the U.S. asylum program.

“We will continue to fight for the rule of law and against these reckless rulings,” White House Press Secretary Sarah H. Sanders said in a statement.

Under U.S. law, immigrants who express fear of returning to their home country are given a screening interview with an asylum officer to determine if they have a “credible fear” of persecution. Those who pass that interview are allowed to bypass deportation proceedings and pursue their asylum claims at a trial-like hearing in immigration court.

The number of “credible fear” interviews increased from about 5,000 a year in fiscal 2008 to 97,000 last year, according to Justice Department data cited in a Federal Register notice. About 89 percent of applicants were determined last year to have credible fear, up from 77 percent in 2008. But only about 6,000 immigrants succeeded in completing the entire process to win asylum, according to the notice.

The Washington case is *Grace v. Whitaker*, 18-cv-1853, U.S. District Court, District of Columbia (Washington). The San Francisco case is *East Bay Sanctuary Covenant v. Trump*, 3:18-cv-06810, U.S. District Court, Northern District of California (San Francisco).

(Adds statement from White House press secretary in 13th paragraph.)