ROUND TABLE
of Former Immigration Judges

January 30, 2025

We are former Immigration Judges and former Appellate Immigration Judges of the Board of Immigration Appeals. Members of our group were appointed to the bench and served under different administrations of both parties over the past four decades. Drawing on our many years of collective experience, we are intimately familiar with the workings, history, and development of the immigration court from the 1980s up to present.

We are greatly concerned with the Department of Justice's sudden termination of EOIR's Legal Orientation Program (LOP).[1] The LOP was created over 20 years ago, under President George W. Bush, with bipartisan support from Congress. In our many decades of experience on the bench, we found the LOP to contribute considerably to the efficiency of the detained Immigration Courts. Under the program, not-for-profit service providers, in coordination with EOIR, visit immigration detention facilities to provide presentations and general advice to detainees, most of whom are not represented by counsel.

Given the complexity of immigration law, this service is of great value. The LOP explains to detained respondents without lawyers the nature of removal proceedings, and allows them to understand the Government's allegations and charges of removability that form the basis of their removal, the facts that are relevant to their cases, and whether or not they might have a claim for a relief from removal.

Regarding efficiency, in the absence of LOP presentations, the burden will fall on the individual Immigration Judges, who currently face an overwhelming backlog of cases, to educate individual detainees on these points themselves. Of course, the time they must spend doing the work

[1] In referencing LOP in this letter, we include the Immigration Court Helpdesk ("ICH") and other related legal assistance programs including Family Group Legal Orientation Program ("FGLOP") and the Counsel for Children Initiative ("CCI").

previously performed by the LOP organizations subtracts from the time those judges can spend hearing and deciding cases.

Due process requires an Immigration Judge to inform each respondent appearing before them of his or her apparent eligibility to apply for any benefits under the immigration laws. Frankly, that takes time. An Immigration Judge must ask numerous detailed questions of the respondent to make sure that all bases were covered. Overlooking a potential relief will lead to a remand of the case.[2] Removing the LOP process significantly increases the chances of having to hear a case twice.

We also wish to point out that the LOP process is not solely focused on respondents seeking to contest their removal. In our experience, it is not uncommon that after consultation with LOP organizations, detainees who realize that they have no relief available to them simply accept a final removal order. Without the orientation provided by the LOP, Immigration Judges would have to schedule and spend time hearing meritless claims for relief, the Board of Immigration Appeals will have to spend time and resources adjudicating the appeals filed in those cases, and the respondents will remain detained at Government expense throughout this process.

The absence of LOP will also lead to more continuances in cases of those who lack relief, as those who have not had access to LOP orientation will request time to learn about the proceedings they face and what avenues for relief they may have.

We hope that members of Congress will take the above considerations into account in determining whether to seek reinstatement of the LOP.

For additional information, contact Hon. Dana Leigh Marks (Ret.), former Immigration Judge, San Francisco, at danamarks@pobox.com.

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[2] *See* , e.g., *CJLG v. Barr*, 923 F.3d 622, 628 (9th Cir. 2019) (en banc) (stating that “[w]hen the IJ fails to provide the required advice, the appropriate course is to "grant the petition for review, reverse the BIA's dismissal of [the petitioner's] appeal of the IJ's failure to inform him of this relief, and remand for a new [ ] hearing.”) (quoting *Bui v. INS*, 76 F.3d 268, 271 (9th Cir. 1996)).