

# Ninety-four percent of child migrants deported from US lack attorneys

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Ninety-four percent of child migrants who were deported from the United States between July and October were not represented by attorneys at deportation hearings, Politico reported last week.

These children, as the newspaper noted, “many under 14 and with no grasp of English,” are being deported in rubber-stamp court hearings with no ability to effectively defend themselves.

According to data from the Executive Office of Immigration Review provided exclusively to Politico, between July 18 and October 21, 11,392 master calendar hearings took place, or more than 800 per week. Of the 1,804 cases listed as completed, 85 percent ruled for deportation.

“By pushing cases too quickly through the courts, it is just form over substance—simply a veneer of due process,” Dana Leigh Marks, an immigration judge in San Francisco and president of the National Association of Immigration Judges, told Politico. “Giving a kid a hearing before they have adequate time to find an attorney or to be in a position to articulate fear of return is not justice.”

According to the Stanford law clinic, immigrants who have lawyers are three times more likely to win deportation hearings. Of the 1,542 deportation orders handed down, 1,449 were issued in absentia, meaning the child did appear in court.

“This data confirms that hundreds of children are being ordered deported because they have failed to appear in court and they have failed to appear in court because they do not have lawyers,” Ahilan Arulanantham, an immigration attorney with the American Civil Liberties Union in California, told Politico.

He added, “It shouldn’t surprise you that a 15 year-old, who is facing deportation to a violence-filled

country that they fled, is not going to show up in court if they don’t have a lawyer to defend them there.”

A backlog of cases has led judges to approve more than 10,000 requests for the court case to be rescheduled, known as continuances. Out of this number, 5,740 were to allow children more time to find legal representation. However, 37 percent of these extensions were only granted for 60 days or less, significantly less than the national standard of four months proposed by immigrant rights attorneys.

US officials have refused to set a minimum amount of time allowed by immigration courts for defendants to find proper counsel. This is part of the overall drive by the White House and Congress to accelerate deportation proceedings.

The Obama administration was responsible for the deportation of 438,421 people last year, the highest number of annual deportations in US history. In Obama’s six years in office, he has deported more people than Bush in his entire eight-year tenure.

The denial of attorneys to child migrants corresponds with an anti-democratic 2009 ruling by then attorney general Michael Mukasey that immigrants have no constitutional right to a defense attorney in deportation proceedings.

According to the ruling, “There is no Fifth Amendment right to effective assistance of counsel in removal proceedings” because “there is no valid basis for finding a constitutional right to counsel in removal proceedings.” Deportation hearings are not protected by the Sixth Amendment’s guarantee to legal counsel since immigration courts are considered civil, not criminal cases.

The ACLU and the Northwest Immigrant Rights Project in Seattle filed a lawsuit on July 9 in federal court arguing that minors are not given the right to due

process if they are denied representation by an attorney.

In a related development, immigrant rights groups in New Mexico sued the Obama administration to provide information on the “expedited removal process” against families with children interned at a remote Department of Homeland Security detention center in Artesia. Using the Freedom of Information Act (FOIA), the groups hope to expose the federal government’s attempt to expedite the deportation process and ignore asylum requests from families fleeing violence in Central America.

Another massive family detention facility has opened in Karnes, Texas, where allegations of sexual abuse are rampant, and a 2,400-bed facility is scheduled to be opened in Dilley, Texas.

“Over the past several months, the Obama administration has overseen a dramatic increase in its practice of locking up mothers and children,” said Melissa Keaney, staff attorney for the National Immigration Law Center.

The lawsuit claims the Artesia camp was built to fast-track deportation hearings, especially cases involving asylum, denying migrants communication with attorneys and giving no notice to migrants about important interviews used to determine asylum requests. According to the groups, mothers have no time to prepare for rushed asylum interviews, and are forced to recount their horrific personal stories, including instances of rape, in front of their children.



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