

US Appeals Court denies second hearing for US citizen falsely imprisoned by ICE officials

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In a serious blow to the basic democratic right of habeas corpus, the US Court of Appeals for the Second Circuit on October 19 denied, for a second and final time, a US citizen the right to seek damages for wrongful imprisonment at the hands of US immigration officials.

The court's one-page decision upheld its earlier ruling by declaring that Davino Watson, a naturalized US citizen who was detained by Immigration and Customs Enforcement (ICE) officers between 2008 and 2011 could not receive a hearing before the whole court rather than by a three-person panel as with an earlier decision which denied him the right to damages.

Watson, who became a naturalized US citizen in 2002, was arrested and served a short sentence on nonviolent drug charges in 2008. Upon his release, ICE officers detained Watson and began proceedings for his eventual deportation on suspicions that he was not a legal US citizen.

Watson's ordeal, in which efforts to prove his citizenship status, such as providing contact information for friends and family members, were either ignored or handled with negligence by ICE officers, kept him illegally imprisoned for over three and a half years. Watson was denied access to an attorney or pro bono counsel, despite ICE's own policy guidelines stating agency officials must "immediately examine the merits of [a citizenship] claim" and provide any suspected US citizen accidentally detained with a "list of pro bono legal service providers."

By the time of Watson's release in 2011, the two-year statute of limitation to sue the government for wrongful imprisonment had passed.

The October 19 court decision is the latest in a series of appeals and reversals by US courts on Watson's case. A 2014 district court ruled Watson's damages

claim permissible on the grounds that he had been wrongfully denied counsel and was not aware of his legal options before the statute of limitations were exceeded. In 2016, Watson would go on to win a mere \$82,500 in court, or payments totaling less than a month's damages for total time imprisoned.

Last summer, even this minor sum was effectively clawed back by the US government, with the Second Circuit court ruling that Watson was not entitled to damages despite there being "no doubt that the government botched the investigation into Watson's assertion of citizenship, and that as a result a U.S. citizen was held for years in immigration detention and was nearly deported."

"This [appellate court decision] is contrary to all the law and is absolutely shameful," Watson's attorney Mark A. Flessner told the WWSW. "This ruling establishes a precedent that can be used against any US citizen," he added.

Flessner explained that the court's upholding of the statute of limitations argument required that, in order for Watson to seek redress for his illegal detention, he would have been needed to begin suing the US government for wrongful imprisonment before he had even won his freedom, all while being denied access to an attorney.

In essence, the court ruling encourages US immigration enforcement and police agencies to hold US citizens in detention without cause for lengths exceeding the statute of limitations, after which even the most flagrant abuses will be tolerated by the legal system.

According to an article published in the *American Prospect* in September, such practices are set to become rampant.

The September 7 article, titled "The House Has

Passed a Bill That Could Create a National Deportation Machine,” makes reference to the US House of Representatives’ ratification of the “No Sanctuary for Criminals Act,” which allows the US government to eliminate funds for so-called “sanctuary cities” that refuse to collaborate directly with immigration agencies.

Mentioning the Watson case by name, the article draws attention to the ICE practice of issuing “detainers” to local jails which “involves the detention of individuals, including U.S. citizens,” and according to a 2015 court decision, requires “neither a warrant, an affidavit of probable cause, nor a removal order.”

“This extends,” the article adds, “to detentions by local officials acquiescing in ICE’s detainer request without any effort to interview the person, ‘request documentation,’ or ‘search federal immigration databases’ to confirm citizenship before ordering detention.” The article characterizes the House bill as “a legal platform for federal immigration enforcers to assert powers eerily close in scale to a monolithic national police state.”

The Second Circuit’s ruling in the Watson case demonstrates the draconian nature of the US immigration system. Furthermore, it demonstrates that, far from defending the interests of American workers against undocumented workers’ supposed usurpation of jobs, the increased powers awarded to the state by both Democratic and Republican administrations are aimed primarily at the repression of the working population, both native and immigrant alike.



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