

Brooklyn defense attorneys protest courthouse immigration arrests

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Defense attorneys staged a walkout at the Brooklyn borough criminal court after the latest immigration arrest occurred there on November 28. The Legal Aid Society lawyers' action was to protest the arrest of Genaro Rojas-Hernandez by officers from Immigration and Customs Enforcement (ICE).

Rojas-Hernandez, a Mexican immigrant, had appeared in court to respond to a charge of misdemeanor domestic violence. Plainclothes ICE officers arrested him at the end of the hearing.

The New York Police Department (NYPD) had first arrested Rojas-Hernandez on November 6 after he allegedly assaulted a woman at a Midwood restaurant in violation of a previous order of protection according to a criminal complaint in his case.

He was charged with 10 crimes, including misdemeanor assault, but four charges were dismissed. Rojas-Hernandez is contesting the charges and refuses to take a plea deal, according to Rebecca Kavanagh, his attorney. Rojas-Hernandez has no prior criminal convictions.

During the afternoon of the arrest, protestors marched outside the courthouse chanting, "ICE-free NYC," and "Hell no, ICE must go," according to Patch.com. The Legal Aid Society led a march to the Brooklyn district attorney's office in which approximately 100 people participated, including attorneys from Brooklyn Defender Services.

The judge had told Kavanagh that ICE agents had come to arrest her client and advised her to speak to him privately outside the courtroom. ICE officers found Rojas-Hernandez before Kavanagh could speak with him, however. Legal Aid attorneys stated that court officers had helped ICE with the arrest and pushed Kavanagh aside as she tried to inform her client of his rights. When Kavanagh told the judge that the officers

had taken Rojas-Hernandez, the judge ordered officers to hold him. Kavanagh was then able to speak with Rojas-Hernandez, albeit in the presence of ICE agents and another attorney.

Rojas-Hernandez told his attorney that ICE officers had questioned him without identifying themselves, according to a tweet from Kavanagh. Rachael Yong Yow, a spokesperson for ICE, denied that account, stating that ICE officers had identified themselves to the court officers and to Rojas-Hernandez.

ICE officers arrested Rojas-Hernandez based on an administrative warrant, which does not require a judge's signature. This type of warrant is used for immigrants who may be deported. Rojas-Hernandez is now in ICE custody, waiting to appear before an immigration judge.

Defense attorneys object to courthouse immigration arrests, which they say make defendants afraid to appear in court. They call for court officers to stop helping ICE to conduct the arrests. "This court should be a safe place for [immigrant defendants] to exercise their due process rights to respond to the allegations against them," said Adrienne Wells, a Legal Aid defense attorney who attended the protest, in a phone interview with Patch.com.

The Office of Court Administration (OCA), the New York state agency that oversees the courthouses, stated that court officers neither help nor hinder ICE arrests. Lucian Chalfen, an OCA spokesperson, claimed that the Legal Aid attorneys had caused a scene by "purposely interfering in an arrest situation."

The ICE arrests in New York City's courthouses are part of a pattern of stricter enforcement that has accelerated since President Donald Trump took office. On November 27, ICE announced that it had arrested 55 foreign nationals from 22 countries in the New York

City metro region. The operation took place from November 13 to November 20 and targeted “at-large criminal aliens, illegal re-entrants, and immigration fugitives,” according to ICE.

Of note, 42 of the 55 people arrested had an active ICE detainer, which requests local law enforcement to hold an individual until ICE can take him or her into custody. Local law enforcement had ignored the detainers and released these 42 people.

Ten of those arrested had been previously removed from the country or were immigration fugitives. Anyone who re-enters the United States after deportation faces federal felony charges and as much as 20 years in prison if convicted, according to ICE. The agency announced that the individuals who were arrested, but will not be slated for criminal prosecution, would be processed for deportation.

Public defenders say that the threat of deportation makes many immigrants fearful of appearing in court. Brooklyn District Attorney Eric Gonzalez told the press that his office opposes the courthouse immigration arrests, noting that the intervention of ICE makes victims of domestic violence less likely to report abuse.

For its part, ICE claims it needs to arrest people in courts because New York is a Sanctuary City where police are barred from detaining those wanted for immigration violations unless they are charged with or convicted of a serious crime.



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