

Federal judge orders continuation of Title 42 deportations of refugees seeking asylum

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On Friday, Louisiana Federal Judge Robert Summerhays issued a preliminary order to prevent the Biden administration ending the use of Title 42, an obscure health measure that is being used to deny the right to asylum and to carry out mass expulsions of refugees seeking to enter the United States.

A provision of the Public Health Service Act of 1944, Title 42 allows the US government to prevent the entry of immigrants from nations in which a communicable disease is present. It had not been used against refugees until March 2020, when the Donald Trump administration took advantage of the COVID-19 pandemic as a pretext to prevent the entry into the US of tens of thousands of immigrants across the US-Mexico border.

The policy of using Title 42 as a pretext for mass denial of asylum was the brainchild of Trump adviser Stephen Miller, an admirer of Adolf Hitler. Its use against immigrant asylum seekers is in line with the fascist Replacement Theory that is increasingly embraced by the Republican Party, which demonizes immigrants as the spearhead of an effort to “replace” the white population of the United States.

While at times Biden has promised to end Trump’s fascistic approach to immigration, his own anti-immigration strategy follows the same logic and attacks the democratic rights of all workers.

From the moment he took office in January 2021, Biden continued to use Title 42 measures against immigrants, while at the same time proceeding to dismantle policies to check the spread of the coronavirus. A particularly brutal example: during the first year of his administration Biden presided over the deportation of 20,000 impoverished Haitian immigrants back to their homeland, the poorest country in the Western Hemisphere.

In April the Centers for Disease Control and Prevention (CDC) declared that Title 42 was no longer applicable, because of what it claimed were more favorable public health conditions in the US relative to 2020, including the availability of vaccines. The Biden administration responded by ordering that Title 42 restrictions end Monday, May 23.

That decision to suspend Title 42 prompted the state governments of Arizona, Louisiana and Missouri to initiate a lawsuit in federal court, arguing that proper procedures were not followed by the CDC over the suspension of the Title 42 policy and that the administration did not have sufficient reasons for ending it. In all, 21 states joined in the suit. Judge Summerhays, a Trump appointee, issued his preliminary order blocking Title 42’s suspension, ruling that the CDC had not properly explained the reasons behind its decision.

While the decision was hailed by the Republican right, press commentaries noted that there was considerable relief in the White House and among Democrats on Capitol Hill. They feared a sudden surge of immigrants across the US-Mexico border would be politically disadvantageous, particularly in Arizona and Texas, but also in congressional contests far from the border. The last thing the Democrats want is to be identified with the defense of immigrants rights, or to take on the fascistic chauvinism of those they continue to call their “Republican colleagues.”

Immigrant rights organizations denounced the judge’s decision. Tami Goodlette, the director of litigation at the Texas-based Refugee and Immigrant Center for Education and Legal Services, blasted the ruling and President Biden for not immediately lifting Title 42 when he took office in January 2021: “Title 42 was never about public health, but rather is shrouded in

racism, as doctors and public health experts have made clear that immigration is not a source of pandemic spread,” said Goodlette.

“The grave human rights abuses faced by people turned away under Title 42 continue to mount every day that the Biden administration evades refugee law by using this illegal and inhumane policy,” declared Kennji Kizuka, associate director for refugee protection research at Human Rights First.

Under Title 42, immigrants caught crossing the border are summarily “expelled” back across the Mexican border. They are denied the chance to demonstrate they and their families face persecution, torture and starvation.

The human cost of this policy is immense. More than 1.7 million such refugees were pushed back across the Mexican border in 2021. Mexican government sources indicate that 114,000 were deported from Mexico during the same period. In Central America alone, over 1 million have been forcibly returned to countries where they face violence and death.

This policy is in direct violation of the universal right to asylum and refuge.

US policies have forced immigrants to choose ever more perilous paths through deserts, resulting in the deaths of thousands from thirst, hunger and exposure. Many of them are never found or identified. Since 1998 more than 7,000 immigrants have lost their lives crossing the desert.

An average of at least 365 people now lose their lives every year attempting the land crossing, according to the human rights group. In addition, scores are injured or killed every year trying to jump over barriers, or lost at sea.

Web sites such as Adn Colibrí, a Facebook page linked to the Colibrí Center for Human Rights, regularly publish notices of people lost crossing the border, many of whom will never be found, dead or alive.

The right to live in and move to a country of one’s choice is a democratic right, whose violation has a long history under capitalism. Restrictive and racist migration laws, quotas, and phony “health requirements,” such as Title 42, are part of a catalog of measures designed to keep out unwanted rural and working class families.

The invoking of Title 42 during the Trump

administration is the most recent of a chain of anti-immigrant measures that followed the last significant immigration reform, signed into law nearly 40 years ago, which legalized a limited number of undocumented refugees. Beginning with the Illegal Immigration Reform and Immigrant Responsibility Act, part of the anti-working class law and order measures initiated by the Democratic administration of Bill Clinton, the attacks on immigrants and asylum seekers have steadily intensified.

The CDC decision to end Title 42 measures exposed significant divisions among Democrats. Many in the Senate and House of Representatives have already adopted the Republican line. At least seven House Democrats support Republican legislation to block the ending of Title 42 measures, along with five Senate Democrats.

The attack on asylum rights, the right of workers facing abominable conditions to exit to the United States and other nations, is of a piece with other attacks on workers and youth, including increasingly repressive measures against press freedoms, protests and demonstrations and voting rights.

The fight against all these attacks cannot rely on the political parties of the ruling class, including Biden’s Democratic Party, and their agents in the trade unions. It is a critical part of the struggle against capitalism and for socialism.

What is required is a global strategy by a united world working class that leads to the abolition of the system of class exploitation and reactionary and historically outmoded national borders, and the establishment of a world socialist society.



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