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Immigration judges' union claims Trump administration is trying to direct case outcomes

The Trump administration has engaged in a "frankly indefensible" effort to direct the outcome of immigration cases, according to Ashley Tabaddor, president of the National Association of Immigration Judges, in a conference call Wednesday with reporters. "The decisional independence of immigration judges is under siege," said Tabaddor, an immigration judge in California since 2005.

Judge Tabaddor was announcing a newly filed grievance by the immigration judges' union and Judge Steven Morley of Philadelphia. The grievance alleges that the federal Office of the Chief Immigration Judge, a division of the Justice Department, improperly removed a controversial deportation case from Judge Morley's oversight after the judge raised questions about the adequacy of the hearing notices supposedly sent to Guatemalan immigration Reynaldo Castro-Tum. The grievance also asserts that DOJ transferred more than two dozen other cases involving similar notification issues out of Judge Morley's oversight.

The cases were reassigned, the grievance argues, because the Justice Department didn't like how Judge Morley was handling them. Attorney General Jeff Sessions, the filing said, personally reviewed the Castro-Tum case, in which Judge Morley had granted an administrative closure rather than ordering Castro-Tum's deportation after he failed to appear for two hearing dates. The AG found that immigration judges do not have authority to close cases administratively.

The case was remanded to Judge Morley but transferred out of his oversight after the judge issued a post-remand continuance instead of terminating the case or issuing an in absentia deportation order for Castro-Tum. Castro-Tum was deported this week after a hearing before an assistant chief immigration judge.

The reassignment of the Castro-Tum case and 26 others "directly flies in the face of the prohibition (against) directing the result of a pending assigned matter before an immigration judge," the grievance said. "It was a deliberate encroachment on a judge's decisional independence to secure a particular result in violation of all applicable rules, regulations and laws."

The grievance, which was filed with the Executive Office for Immigration Review under the union's collective bargaining agreement, calls for all of the reassigned cases to be returned to Judge Morley, along with a written acknowledgment that his judicial integrity was unfairly impugned. If that relief is not granted, union chief Tabaddor told reporters, the case will proceed to arbitration. A previous grievance by the immigration judges' union, involving case handling quotas, is currently in arbitration, she said.

"We as judges who are bound by an oath of office cannot let these action proceed unchallenged," Tabaddor said.

A spokesman for the Justice Department's Executive Office for Immigration Review said in an email response to the union grievance that its Office of the Chief Immigration Judge conducts thorough investigations "in any situation where a concern is raised about an immigration judge's conduct, regardless of whether that concern is raised by a representative, third-party group, or following an internal review."

The statement said there was reason to believe Judge Morley "committed potential violations of processes and practices governed by federal law and EOIR policy" and that the EOIC "looks forward to fully vindicating the issues surrounding this matter."

(This article has been updated to add comment from the Justice Department.)

(Reporting by Alison Frankel)

--- **Index References** ---

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