

THE WALL STREET JOURNAL.

FEDERAL JUDGE RULES AGAINST MASS DETENTION OF ASYLUM SEEKERS

Injunction marks the second recent court defeat for Trump administration immigration policy

By Jacob Gershman
July 2, 2018

A federal judge in Washington, D.C., on Monday ruled the Trump administration can't systematically detain asylum seekers who arrive at the border with a credible fear of returning to their homelands.

The ruling by U.S. District Judge James E. Boasberg marked the second time in less than a week that a federal judge has found the Trump administration's immigration policies to likely be unlawful and ordered changes.

The decision followed last Wednesday's order by a federal judge in California aimed at restricting the separation of families after they cross the border illegally. Monday's ruling wasn't about keeping children and parents together but the procedures around denying so-called humanitarian parole to asylum seekers.

The American Civil Liberties Union, one of the groups that sought the injunction, alleged that the Trump administration was locking up the vast majority of asylum applicants during their proceedings as a measure to deter mass migration.

The civil-rights group pointed to a big drop in the percentage of asylum seekers released from immigration custody under the Trump administration, arguing the decrease was evidence that officials were engaging in "systematic detention" in violation of the government's own policy.

A 2009 U.S. Immigration and Customs Enforcement directive requires immigration authorities to interview asylum seekers about their parole requests before deciding to hold them in custody pending review of their applications.

Judge Boasberg's order – a temporary injunction that applies to five ICE field offices – requires that asylum applicants be granted an "individualized determination" into whether he or she presents flight risk or a danger to the community. The order applies only to the more than a thousand asylum seekers who have arrived at a port of entry and have established that they have a credible fear of persecution if deported back to their home country.

The suit was brought against ICE field offices in Detroit, El Paso, Texas, Los Angeles, Newark, N.J., and Philadelphia.

"Finding that the circumstances here merit that extraordinary form of relief, the Court will grant Plaintiffs' Motion," wrote Judge Boasberg, appointed to the bench in 2011 by President

Barack Obama. "In so doing, this Opinion does no more than hold the Government accountable to its own policy."

The lead plaintiff in the lawsuit is Ansly Damus, described by the ACLU as a Haitian ethics teacher in his early 40s who has been detained for more than a year in Ohio since fleeing to the U.S. to escape gang violence and political persecution.

A Justice Department spokesman declined to comment on the ruling.

In court briefs, DOJ lawyers said the department wasn't violating the directive and contended that an alleged lack of compliance with the internal policy statement couldn't be a basis for a lawsuit.

The ruling comes as the Trump administration seeks judicial permission in a separate case to detain children alongside their parents in ICE family facilities pending immigration proceedings.

The ruling makes clear that "the government cannot simply move from family separation to indiscriminate mass family detention of those who pose no flight risk or danger," said ACLU attorney Lee Gelernt.