



Hundreds of judges reject Trump's mandatory detention policy, with no end in sight

Judges have ruled against the administration in more than 1,600 cases.



Judges have ruled against the administration's policy that virtually anyone in the country unlawfully is subject to detention. | David Zalubowski/AP Photo

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Federal judges are increasingly exasperated by the Trump administration's [effort to lock up nearly everyone facing deportation proceedings](#) — a draconian expansion of decades-old policies that hundreds of courts have rejected as illegal or unconstitutional.

More than 300 federal judges, including appointees of every president since Ronald Reagan, have now rebuffed the administration's six-month-old effort to expand its so-called "mandatory detention" policy, according to a POLITICO analysis of court dockets from across the country. Those judges have ordered immigrants' release or the opportunity for bond hearings in more than 1,600 cases.

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And dozens more federal judges have ordered the administration to release immigrants yanked off the street without due process or held for prolonged periods even though no country has agreed to accept them.

The legal rejections are so frequent that one judge [compared the Trump administration's effort to Sisyphus](#) rolling a rock uphill. Others have become so familiar with the cases that they've begun issuing terse, [carbon-copy rulings](#) to dispense with the deluge. Immigrant advocates say the administration's win-loss record is beside the point; the goal appears to be making the process so onerous that many choose to give up rather than face weeks or months of detention.

Despite the overwhelming legal consensus, there has been no successful nationwide block on the policy. That's partly because most of the cases are filed on an emergency basis by individuals in the hours after they're arrested — with little time to assemble large groups that could mount a broad challenge.

In recent weeks, the judges' conclusions have become increasingly urgent, describing shocking mistreatment and inhumanity as thousands of people — the majority not charged with any crime — are abruptly ripped from family members and locked up in squalid detention centers, even if they have lived in the country for decades. Many have been arrested while attending required immigration court proceedings or check-ins with Immigration and Customs Enforcement that they had attended for decades.

“This district has been flooded with petitions for relief with similar stories — families ripped apart, and people who pose no danger or risk of fleeing imprisoned with no end in sight, flown to far off detention centers for reasons that the government lawyers who appear in court themselves can't explain,” U.S. District Judge Arun Subramanian wrote in [a Dec. 23 opinion](#). “And that doesn't account for the countless people picked up off the streets who don't have lawyers and who can't effectively seek relief.”

“No one disputes that the government may, consistent with the law's requirements, pursue the removal of people who are in this country unlawfully. But the way we treat others matters,” the New York-based Biden appointee continued.

Subramanian's ruling is [one of hundreds](#) issued by judges since July 8, when ICE [revised its policies](#) to conclude that virtually anyone in the country unlawfully was subject to detention — without the possibility of release on bond — while awaiting deportation proceedings. That decision reversed 30 years of practice by federal immigration authorities, who prioritized detention only for people deemed to be dangerous or likely to flee.

In recent weeks, the legal challenges have surged, with more than 100 new lawsuits filed daily, a figure that has steadily increased.

Courts overwhelmingly reject the policy

A POLITICO review of thousands of federal dockets reveals the starkly lopsided results for the Trump administration: While 308 judges have ruled against the administration's mass detention policy — ordering release or bond hearings in more than 1,600 cases — just 14 judges, including 11 appointed by President Donald Trump himself, have sided with the administration's position. Even Trump's appointees have rejected the administration's view; 33 have ruled against its position on mass detention.

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The rejections have come predominantly from judges appointed by [Joe Biden](#) (103), [Barack Obama](#) (97) and [Bill Clinton](#) (27). In addition to the 33 Trump-appointed judges, the list includes 48 appointed by Presidents [George W. Bush](#), [George H.W. Bush](#) and [Ronald Reagan](#).

And the numbers are likely to continue surging until federal appeals courts — or perhaps the Supreme Court — settle the matter conclusively, at least in large swathes of the country. The administration has appealed dozens of its defeats, but appellate courts are unlikely to resolve the matter for months, even on expedited timelines. The Chicago-based 7th Circuit Court of Appeals [recently signaled](#) that it opposed the administration's view on mandatory detention, but the ruling was primarily about the administration's handling of a class action lawsuit dating to 2018.

Department of Homeland Security officials have argued that they're exercising maximal detention authority that other administrations simply chose not to employ. They say it's an antidote to years of "catch-and-release" policies by the Biden administration, a practice in which immigrants crossing the border were briefly detained and then paroled into the country.

"Regarding decisions from federal courts about mandatory detention, judicial activists ... have been repeatedly overruled by the Supreme Court on these questions," Assistant DHS Secretary Tricia McLaughlin said. "ICE has the law and the facts on its side, and it adheres to all court decisions until it ultimately gets them shot down by the highest court in the land."

What does the law require?

At issue is a tension in the complex and tangled U.S. immigration laws that has vexed courts for decades. Federal law mandates detention for immigrants deemed to be "applicants for admission" to the U.S. who enter the country illegally; this has long been interpreted by courts and ICE to apply to people who only recently crossed the border.

Immigrants who have lived in the country for decades, on the other hand, have been subject to detention only if they are deemed a danger to society or a flight risk. And they have been afforded the right to bond hearings before immigration judges — executive branch officials tasked with adjudicating immigration cases, a system distinct from the federal judiciary.

But ICE now contends that immigrants living in the country for years should still be considered "applicants for admission" subject to mandatory detention, even if no previous administration agreed.

In October, the Board of Immigration Appeals — the executive branch body that oversees immigration judges — [sided with the Trump administration's view](#) of mass detention, effectively requiring detention for immigrants targeted by the Trump administration's mass deportation campaign.

That decision has prompted a furious rush to federal courts. The flood of litigation that included a nationwide class action that appeared poised to resolve the matter. But ambiguities in that ruling — issued by U.S. District

Judge Sunshine Sykes, a Biden appointee based in California — led the Trump administration to continue attempting to lock up most deportees without bond.

Some Trump appointees side with him

A handful of judges have recently sided with the administration's view. U.S. District Judge Jodi Dishman, a Trump appointee from Oklahoma, said the vast majority of courts were going too far in concluding that immigrants living in the U.S. were no longer "applicants for admission." And she questioned how judges were drawing the line.

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"Is two years of unadmitted residence long enough? Three? How far must an alien travel from the border? 50 miles? 100?" Dishman wondered. "If an alien has been in the interior a short time but resides far away from the border, can the distance make up for a short duration?"

Even as she sided with the administration, Dishman acknowledged the consequences of her ruling: "The Court's first duty is to the rule of law, and to misplace that duty would undermine our system of ordered liberty. The Court takes no solace in the human realities on the other end of its pen."

Another Trump appointee, Brian Buescher, [recently ruled](#) that even the nationwide class action granted by Sykes doesn't prevent the administration from implementing its expanded detention policy. That class action, the Nebraska-based judge wrote, was beyond Sykes' authority to issue.

"The fact that a District Judge in California interpreted the law differently ... does not somehow usurp or overrule all other judges in the United States Federal Courts, like this one, who see the issue differently," Buescher ruled.

A third Trump appointee, Louisiana's Terry Doughty, [recently flipped](#) on the issue. Despite [initially ruling](#) against the Trump administration, Doughty said the Board of Immigration Appeals' October decision was persuasive.

But even among Trump appointees, those rulings are an exception. Others, like [Florida's Kyle Dudek](#), [Texas' Jason Pulliam](#) and [Kentucky's Rebecca Grady Jennings](#), have rejected ICE's new policy.

"The same wisdom that requires immigrants and noncitizens to follow the law equally requires the government to follow the law. That wasn't done here," wrote Damon Leichty, a Trump appointee based in Indiana, in [a Dec. 30 ruling](#).

Judges reject another detention policy

Though the expansion of mandatory detention has flooded the courts with emergency litigation, it's not the only aspect of the Trump administration's mass deportation policy that has clogged court dockets. Another prominent culprit is the Trump administration's decision to round up immigrants who have previously been ordered deported — sometimes years earlier — but whose home countries have refused to issue valid travel documents to effectuate their return.

Though immigration officials are permitted to detain people in order to carry out their deportations, they can't do so indefinitely. There's no official legal limit, but the Supreme Court [has blessed](#) a six-month detention as “presumptively reasonable.”

Yet judges across the country have found the Trump administration frequently violating these restrictions, holding people in detention without any country willing to accept them and no prospect for imminent deportation. This has led to a second surge of litigation and, in many cases, orders by judges requiring immigrants' immediate release.

U.S. District Judge Robert Lasnik last month [ordered the release](#) of a Vietnamese woman who was arrested at an ICE check-in in August even though the federal government has been unable, for 26 years, to obtain travel documents to return her to her home country. Lasnik noted that the woman's son died by suicide in November and without release, she would be unable to attend his funeral.

Other judges have ordered the release of people who have resided in the U.S. while fleeing persecution in Iran, Russia and other countries that rarely accept U.S. deportees.

Subramanian's blistering ruling came in the case of Aissatou Diallo, a 52-year-old woman from Guinea who was ordered deported in 2012 but could not be sent to her home country because an immigration judge concluded she was likely to face persecution there.

“Fast forward to November 25, 2025. Without any notice, Diallo was taken out of the security line at LaGuardia Airport, arrested, and shipped off to Louisiana to be detained there until the government can find a country to send her to,” Subramanian wrote. “At the hearing on her ... petition on December 5, 2025, Diallo appeared in a courtroom sullen and scared, in prison garb, and shackled. None of this had to happen. All of it is illegal.”

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