

News



# In Philly immigration court, a judge is replaced after delaying man's deportation

The ouster of Judge Steven Morley from the deportation case marks the latest attack on judicial independence by the Justice Department led by Attorney General Jeff Sessions, 15 retired judges wrote in a July 30 letter of protest.



U.S. Attorney General Jeff Sessions gestures during a news conference in Boston last week. (AP Photo/Charles Krupa)

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by Jeff Gammage  
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The Justice Department replaced a Philadelphia immigration judge who had asked for more legal information in a deportation case, inserting a new jurist who quickly ordered the defendant removed from the United States, according to a letter of protest signed by 15 retired judges.

The ouster of Judge Steven Morley from the case marks the latest attack on judicial independence by a Justice Department led by Attorney General Jeff Sessions, the judges wrote.

"As a democracy, we expect our judges to reach results based on what is just," they stated, "even where such results are not aligned with the desired outcomes of politicians."

Justice Department officials declined to comment Wednesday. Efforts to contact Morley were unsuccessful.

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The July 30 letter, first reported by the website BuzzFeed News, condemns what it describes as "interference with judicial independence."

"Important due process safeguards are required in deportation proceedings," because the consequences can be life or death, the judges wrote. In this case, the immigration review office sought "to ensure an outcome that would please its higher-ups."

The Justice Department's action has shocked members of the city's community of immigration lawyers and disturbed other public officials.

Morley was presiding over the case of Reynaldo Castro-Tum, who came here four years ago from Guatemala as an unaccompanied 17-year-old.

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He had been released into the care of a relative in rural Washington, Pa., and had failed to show up at several court hearings. The judge suspended the case using a procedure known as "administrative closure," saying the notice sent to Castro-Tum may have gone to the wrong address.

As head of the Justice Department, which oversees immigration court, Sessions has restricted the use of administrative closure, a common practice in the past.

Morley was removed after he asked for briefs to be filed on whether the defendant had been properly notified of the hearing. The Justice Department's Executive Office for Immigration Review sent Assistant Chief Immigration Judge Deepali Nadkarni to Philadelphia Immigration Court to conduct a single hearing. She ordered the defendant removed without further inquiry.

"I was getting ready to write the brief, then I noticed Judge Morley was gone," said Castro-Tum's lawyer, Matthew Archambeault of Philadelphia. "It's really quite shocking."

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Archambeault first stepped forward as a friend of the court for a youth who had no legal representation. The case was likely headed toward a ruling of deportation, Archambeault said, but at the same time it was unclear that Castro-Tum had received the notices telling him he must be present in court.

"If a judge is making a decision I disagree with, I want to make sure it's *his* decision, that it's not being dictated from above," Archambeault said. Morley's removal "was done as a message to the judges: Get in line, or else we'll put someone there who'll do it for you."

Among the judges who signed the letter were:

— John Gossart Jr., an immigration judge from 1982 until his retirement in 2013. He's a former president of the National Association of Immigration Judges, and is co-author of the National Immigration Court Practice Manual.

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— William Joyce, who served in Boston and, before his appointment to the bench, was an assistant U.S. attorney for the Eastern District of Virginia.

— Cecelia Espenoza, who previously was a member of the immigration review board and taught immigration law at the University of Denver.

"When a sitting judge is removed from a case without cause, and a special judge is sent to make a decision, that's cause for serious concern," said John Vandenberg of Hogan & Vandenberg LLC, former head of the Philadelphia chapter of the American Immigration Lawyers Association. "A degradation of due process in immigration courts could be a bellwether for the degradation of due process in other courts. And due process is what makes our country different."

Others insist that the country needs to be tougher on people wanting to come here from other lands, particularly those who cross the border without permission.

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The Washington-based Federation for American Immigration Reform, for instance, advocates for tighter controls on immigration. Contending that migrants often try to game the system in order to stay here, FAIR wants a faster, tougher approach toward people who come to the U.S. claiming they're being persecuted in their homelands.

Immigration court is a civil, not criminal, system, composed of roughly 60 jurisdictions and 350 judges. In the flow chart of the federal government, these courts come under the Justice Department. At the top of the department stands the attorney general, who has the power to issue binding decisions on how immigration judges operate.

Those circumstances make the courts vulnerable to political pressure and government directives, outside observers say.

In April, the Justice Department told judges they each must clear at least 700 cases a year, and have less than 15 percent of their decisions overturned, to receive a satisfactory rating on their job reviews.

The next month, Sessions told immigration judges they could no longer grant asylum to most migrants who come here trying to escape domestic abuse or gang violence. He reversed a ruling that had granted asylum to a Salvadoran woman who said she was physically and emotionally abused by her ex-husband.

Now, said Philadelphia City Councilwoman Helen Gym, whose office has followed cases in local immigration court, "The DOJ has targeted a judge simply for doing his job and attempting to uphold the law. ... I am deeply disturbed to see the U.S. Department of Justice go to such lengths to interfere in Philadelphia's immigration courts in ways that threaten basic judicial fairness."

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Jeff Gammage

I cover immigration — the people, the issues, the conflicts.

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