



National Immigrant Justice Center

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Contact: Naomi Gitlin
(773) 929-1000
ngitlin@ngitlin.com

HEARTLAND ALLIANCE'S NATIONAL IMMIGRANT JUSTICE CENTER PETITIONS DEPARTMENT OF JUSTICE TO ALLOW IMMIGRATION JUDGES TO APPOINT COUNSEL FOR SOME IMMIGRANTS

CHICAGO (June 30, 2009) - Heartland Alliance's National Immigrant Justice Center (NIJC) today joined with other immigrant and human rights groups in petitioning the U.S. Department of Justice to issue regulations allowing immigration judges to appoint lawyers for men, women, and children in immigration proceedings.

Under current U.S. law, non-citizens in immigration proceedings have a right to a lawyer, but must locate and hire one on their own. For some individuals, including detained children and asylum seekers, hiring a lawyer may be an impossible task.

"The Department of Justice should allow immigration judges to appoint lawyers when necessary to ensure that individuals have a meaningful day in court, including a chance to present evidence and make complicated legal arguments regarding their eligibility to remain in the U.S.," said Mary Meg McCarthy, executive director, Heartland Alliance's National Immigrant Justice Center (NIJC). "Failure to provide appointed counsel for the most vulnerable immigrants facing deportation violates standards of fundamental fairness embodied in the American concept of due process."

According to statistics from the Executive Office for Immigration Review, individuals were represented by counsel in only 48 percent of immigration court proceedings during fiscal year 2006. This lack of representation has a significant effect on the outcome of immigration cases. One study found that for detained individuals applying to become lawful permanent residents, 41 percent of those with legal representation won their cases, compared to 21 percent of those without representation. In asylum cases, 18 percent of represented, detained persons were granted asylum, compared to only 3 percent of unrepresented, detained persons.

The petition also suggests that immigration judges appoint counsel in cases where it appears that the individual facing removal might be a U.S. citizen. News media have reported numerous cases in which Department of Homeland Security's Immigration and Customs Enforcement has detained or deported U.S. citizens who did not have lawyers and struggled to present their case in court.

"A massive increase in the number of people facing deportation, and the growing complexity of U.S. immigration law have made it extremely difficult for most immigrants to navigate the immigration system without the help of a lawyer," McCarthy said. "Giving immigration judges the power to appoint counsel for indigent individuals is the first step toward solving this problem."

(more)

Groups joining with NIJC in this petition include the Catholic Legal Immigration Network, Inc., National Immigration Forum, Northwest Immigrant Rights Project, Post-Deportation Human Rights Project, Center for Human Rights and International Justice at Boston College. *Pro bono* attorneys at Jones Day helped draft the petition for rulemaking.

Sources:

Donald Kerwin, "Revisiting the Need for Appointed Counsel, *Insight* (Migration Policy Institute, No. 4, April 2005) at 6.

United States Department of Justice, Executive Office of Immigration Review, *FY 2006 Statistical Year Book G1* (2007).

About Heartland Alliance's National Immigrant Justice Center:

Heartland Alliance's National Immigrant Justice Center provides direct legal services to and advocates for immigrants, refugees, and asylum seekers through policy reform, impact litigation, and public education.

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