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Federal Court Certifies Two Nationwide Classes Challenging Delays in Detained Asylum Seekers' Cases

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Seattle (March 7, 2019) – A federal district court in Seattle, Washington has certified two nationwide classes of detained asylum seekers who are challenging the government’s delays in providing asylum interviews and bond hearings. Northwest Immigrant Rights Project (NWIRP) and the American Immigration Council filed the lawsuit in the wake of the family separations that occurred after the Trump administration announced its so-called “zero tolerance” policy aimed at imprisoning and deterring asylum applicants.

The classes certified by U.S. District Judge Marsha Pechman encompass thousands of asylum seekers across the country who were detained at the border and forced to languish for months in detention, waiting for the opportunity to apply for asylum. After seeking asylum or expressing a fear of return, class members were referred for screenings—known as “credible fear interviews”—by asylum officers. Upon establishing to the asylum officer that their fear of persecution or torture is credible, their cases are transferred to immigration court, where they have an opportunity to apply for asylum. In many cases, they also can request a bond hearing in front of an immigration judge so that they are not forced to remain in detention for the many months that the immigration proceedings last.

The first class certified in yesterday’s order is a nationwide class of detained asylum seekers who were not provided a credible fear interview within ten days of requesting asylum or expressing fear. The lawsuit alleges that the Department of Homeland Security’s delay violates both immigration laws and constitutional protections by forcing class members to wait several weeks or months for these screenings, all the while locked up in prisons or detention centers.

The second certified class covers individuals found to have a credible fear of persecution or torture, but who are not provided a timely bond hearing with appropriate procedural protections. The plaintiffs are asking the court to order bond hearings within 10 days of requesting such a hearing with constitutionally required protections, including placing the burden of proof on the government to justify the continued detention and providing a verbatim record of the hearing with written findings explaining the immigration judge’s decision.

“The federal government has been very transparent in manipulating the process—delaying cases and prolonging detention as a means to deter asylum seekers from pursuing their right to seek protection.” said Matt Adams, legal director for NWIRP. “This order was absolutely essential to provide any meaningful opportunity for detained asylum seekers to challenge the current practices.”

“The Court’s order recognizes that thousands of asylum seekers are similarly situated to those of our named plaintiffs—they face unwarranted and punitive delays in pursuing their asylum claims and, when they finally get a bond hearing, those hearings lack basic due process protections,” said Trina Realmuto, directing attorney at the American Immigration Council. “This ruling will allow the Court to address the significant liberty and safety interests that are at stake for all individuals in these situations.”

Judge Pechman’s order granting class certification can be found [here](#).

The court previously denied the federal government’s motion to dismiss the case, as well as the government’s motion to place the case on hold. Those orders can be found [here](#) and [here](#). A motion for preliminary injunctive relief with respect to the bond hearing class remains pending before the court.