

IMMIGRATION

FOIA Documents Show Trump Administration Stacked The Immigration Courts With Political Hires

Next up: All immigration judges will be replaced with literal rubber stamps!

By LORELEI LAIRD

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Remember when immigration judges were supposed to be neutral arbitrators, pursuing justice through careful fact-based inquiries? Me neither, but even lip service has been suspended at the Executive Office for Immigration Review, the subagency within DOJ that runs the immigration courts. Documents recently released under the Freedom of Information Act request show that the Trump administration deliberately politicized the hiring process for immigration judges.

Some background is in order. There is a Board of Immigration Appeals, which hears appeals from the front-line immigration courts. The BIA sets precedent (when AGs don't [overrule it for expressly political purposes](#)) based on those appeals, just like the Article III system. So it matters who's on the BIA.

[or higher](#), according to Tal Kopan at the San Francisco Chronicle. Two of those judges had been sued for apparent attempts to intimidate immigrants; one of those had multiple sustained ethics complaints against him. But apparently that wasn't enough to ensure that immigrants would always lose, so DOJ created three more seats at the end of March (effective the next day!) and hired three more judges who were sworn in May 1. Two of the three were sitting immigration judges, with asylum denial rates of [96.3%](#) and [88.1%](#). The average, by the way, is 57.6%.

All of this was done under new hiring rules that EOIR did not make entirely public. The American Immigration Council and the American Immigration Lawyers Association filed a FOIA request. The results of the inevitable lawsuit came in [earlier this month](#), and they show exactly what you'd expect: EOIR has changed the hiring rules to give political appointees more power over the hiring process, taking that power away from apolitical career civil servants. It has also dramatically shortened the timeline for hiring, including by permitting candidates to advance before vetting is completed.

A spokeswoman for EOIR [told Roll Call](#) that the agency's hiring process is "merit-based." Tellingly, however, she expressly asked Roll Call not to put her name on that nonsense.

If any of this sounds familiar, it might be because politicized personnel decisions at DOJ — particularly, but not exclusively, the dismissal of insufficiently conservative U.S. Attorneys — [led or contributed to](#) the resignation of former AG Alberto Gonzales. (This could also be called "the Monica Goodling scandal," although I hesitate to put it that way because a brief search through ATL's archives shows that [David Lat was a bit obsessed](#) at the time.) In fact, the new EOIR hiring process replaces one instituted after the U.S. Attorneys incident, expressly to reduce the influence of politics. Because, back in the halcyon days of 2007, politicizing DOJ was a scandal that both parties objected to.

But in 2020, that's an almost weekly occurrence. Michael Flynn's case probably rose above your constant outrage fatigue, but the systemic, far-reaching politicization of the immigration courts isn't likely to make the cut. That's too bad because this is almost certainly going to result in wrongfully deporting people to their deaths.



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