

Dedicated advocacy

Adult Representation Services



**Immigration Law Year in Review**

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# Adult Representation Services

- We are an independent Hennepin County department that provides confidential and holistic advocacy to clients experiencing financial hardship in civil matters where they are entitled to an attorney
  - Parents and guardians in child protection matters
  - Tenants facing eviction
  - Persons subject to guardianship
  - Non-custodial parents facing child support contempt actions
  - Individuals facing or involved in civil commitment proceedings



# Adult Representation Services

- Our mission is to safeguard the rights, autonomy, and stability of individuals through dedicated legal advocacy
  - Our clients predominantly identify as BIPOC; all are experiencing extreme poverty
  - Many experience historical and ongoing trauma, and currently struggle with mental, social, and physical health challenges
- Our clients are treated with dignity, respect, and compassion, and our advocacy is transformational, holistic, and innovative
  - Our staff include attorneys, holistic legal support staff (paralegals, investigators, legal services staff), law clerks, and administrative and IT support staff
  - We provide representation for court-involved individuals and upstream, preventative legal services, including immigration, pre-petition work in child protection, and alternatives to guardianship



# Today's CLE

- We will cover some of the notable changes in immigration law and practice from the past year
  - Enforcement Changes
    - Expansion of Detention Authority
    - Large Scale Immigration Enforcement Operations
    - Changes to the Immigration Court System
    - Restrictive Access to Asylum
  - Benefits Updates
    - Changes to Temporary Protected Status (TPS) and Parole Programs
    - Revetting Operation PARRIS
    - Administrative Pause
    - Citizenship process
    - USCIS as an enforcement agency



# Expansion of Detention Authority

- Laken Riley Act
  - Signed into law on January 29, 2025
  - Expands categories of noncitizens subject to mandatory detention under 8 USC 1226(c) to include:
    - Noncitizens who entered without inspection (EWI), who were paroled, or who entered fraudulently **and**
    - Who are arrested for, charged with, convicted of, or who admit having committed acts of burglary, theft, larceny, shoplifting, assault of a law enforcement officer, or any crime that results in death or serious bodily injury to another person





# Expansion of Detention Authority

- Matter of Yajure Hurtado
  - Decision by the Board of Immigration Appeals (September 5, 2025)
  - Held that all noncitizens who cross the border without inspection (EWI) are subject to mandatory custody under 8 U.S.C. § 1225(b)(2)(A).
    - Applies to a noncitizen who is an “applicant for admission.”
    - Noncitizens who enter without inspection are “seeking admission” to the United States regardless of how long they have lived in the country.
  - Precedent was that noncitizens who EWI are held under 8 U.S.C. § 1226 and would be entitled to seek release on a bond **unless** they were subject to criminal grounds of mandatory detention.





# Expansion of Detention Authority

- Litigation Post-Matter of Yajure Hurtado
  - *Maldonado Bautista* Class Litigation
    - Certified a nationwide class of noncitizens who are detained and denied access to bond hearings based on the government's allegation that they entered without inspection.
    - The Court granted declaratory relief to entire class.
  - January 13, 2026, Executive Office for Immigration Review issued nationwide guidance to all immigration judges
    - "*Maldonado Bautista*" is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*."
  - Led to habeas filings in federal district courts across the country.
    - District court judges overwhelmingly disagree with the government's interpretation of the detention statutes.





# Expansion of Detention Authority

- Litigation Post-Matter of Yajure Hurtado, continued
  - *Maldonado Bautista* Class Litigation
  - Issue is making its way up to the circuit courts of appeal:
    - On February 6, 2026, Fifth Circuit Court of Appeals sided with government in *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5<sup>th</sup> Cir. 2026)
    - Eighth Circuit is poised to rule on this issue in a pending case, *Avila v. Bondi*, No. 25-3248. The government appealed a habeas grant on the mandatory detention issue, and the Eighth Circuit granted the government's motion for expedited review.



# Expansion of Detention Authority

- Raising burden for noncitizens who aren't subject to mandatory detention
  - *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025) – held that significant discrepancies in address history or failure to timely file change of address notices with the immigration court are adverse factors in the determination of whether someone is a flight risk.
  - *Matter of Dobrotvorskii*, 29 I&N Dec. 211 (BIA 2025) – held that the existence of a valid, reliable, and credible sponsor is relevant to flight risk determination.



# Large Scale Immigration Enforcement Operations

- 2025 and early 2026 brought large scale immigration enforcement operations to several places including Los Angeles, Chicago, and Minnesota
  - Operation Metro Surge in Minnesota is the largest operation in history in terms of number of agents on the ground
- Tactics justified by new interpretations of the law
  - Kavanaugh stops
  - Warrantless arrests
  - Entry into homes without a judicial warrant



# Changes to Immigration Court System

- Immigration judges (IJs) are USDOJ employees
- In 2025, nearly 100 IJs were fired
  - Replacement with temporary IJs – military background or current JAGs
  - More than 3 million cases pending in immigration court
- March 9, 2026: new interim rule for administrative appellate procedures
  - Shortened deadline for appeals (from 30 days to 10)
  - BIA discretion to dismiss appeals within 15 days of filing
  - Review cases will have shortened briefing schedules



# Restricting Access to Asylum

- Procedural
  - Fees
  - IJ discretion
  - Asylum cooperation agreements
- Substantive
  - Elimination of “duress exceptions”
  - Heightened burden on applicants





# Restricting Access to Asylum

- Procedural
  - \$100 fee on initial filings and \$100 “annual maintenance fee”
    - Previously, no fees; currently, no waiver available for new fees
  - Greater IJ discretion to dismiss cases before they are heard on merit
    - IJs are not required to hold merit hearing if the asylum application is incomplete. *C-A-R-R-*, 29 I&N Dec. 13 (BIA 2025)
    - If the factual allegations underlying an asylum claim do not establish prima facie eligibility for relief or protection, the IJ may pretermite the application without a full evidentiary hearing on the merits of the claim. *See H-A-A-V-*, 29 I&N Dec. 233 (BIA 2025)





# Restricting Access to Asylum

- Procedural, continued
  - Asylum cooperation agreements to restrict access
    - Bi- or multilateral agreement allowing the US to deport a noncitizen to a “safe” third country to seek asylum there instead of granting asylum in the US
    - Noncitizens are not eligible for asylum where they are subject to a “asylum cooperation agreement (ACA)” unless they can prove by a preponderance of the evidence that it is more likely than not they will be persecuted in the third country. *C-I-G-M- & L-V-S-G-*, 29 I&N Dec. 291 (BIA 2025)
    - Government is moving to pretermit for many ACA claims filed by noncitizens, especially noncitizens from Latin America





# Restricting Access to Asylum

- Substantive, continued
  - Heightened burden on applicants for asylum and other humanitarian protections
    - A single attempt to report an incident of harm by private actors to local police, without evidence of harm by police or evidence of their “widespread collusion” with the alleged persecution, does not establish the government is unable or unwilling to protect a noncitizen from persecution. *Matter of K-S-H-*, 29 I&N Dec. 307 (BIA 2025)
    - A bisexual criminal deportee with visible gang tattoos has not established individualized risk of torture in detention in El Salvador. *Matter of A-A-F-V-*, 29 I&N Dec. 118 (BIA 2025). This case reversed an IJ grant of protection under the Convention against Torture.





# Restricting Access to Asylum

- Substantive
  - Elimination of “duress exceptions” for certain bars to asylum
    - No duress exception for noncitizens who have engaged or assisted in the persecution of others. *Negusie*, 29 I&N Dec. 285 (AG 2025).
    - Serious nonpolitical crime bar to asylum does not include a duress exception. *Matter of D-G-B-L-*, 29 I&N Dec. 392 (BIA 2026)





Questions?



# Ending TPS and Parole Programs

- Temporary Protected Status (TPS)
  - Provides temporary protection in the US to nationals of countries in crisis or where country is unable to handle return of nationals
  - Countries are designated by DHS Secretary for 18 months at a time
    - Can re-designate; nationals need to apply during registration period (form I-821)
  - Eligibility requirements
    - National of a TPS designated country or person without nationality
    - Continuously physically present or residing in US since country's designation
    - Ineligible if: criminal convictions; found inadmissible under INA Section 212(a); subject to mandatory bars to asylum; fail to meet CPP or CR requirements; failure to re-register





# Ending TPS and Parole Programs

- Temporary Protected Status (TPS), continued
  - Benefits of TPS
    - Person is not removable during designation period
    - Can obtain employment authorization document (EAD)
    - May be granted travel authorization- advance parole (AP) – can open path to permanent status (see Matter of Arrabally and Yerrabelly, 25 I & N Dec. 771 (BIA 2012))
- Litigation challenging improper termination of TPS
  - Specific to some countries
  - Extends EAD validity for those with TPS from certain countries





# Ending TPS and Parole Programs

- Examples of Parole Programs
  - CHNV Parole (Cubans, Haitians, Nicaraguans, Venezuelans)
    - Permitted national to enter safely & be granted parole and EAD with purpose of seeking asylum; terminated on 5/30/25 (Noem v. Svitlana Doe, 605 U.S. \_\_\_ ; 2025)
  - Uniting for Ukraine
    - New apps paused on Jan 20, 2025, per EO "Securing Our Borders"
    - Those previously approved maintain protection & can apply for renewal
  - Family Reunification Parole Program
    - Beneficiaries of approved I-30s can be paroled into US to wait for a visa; terminated Dec 15, 2025
      - District court ordered stop of termination for those whose EAD was issued (Doe v. Noem)



# Ending TPS and Parole Programs

- What does ending these programs mean?
  - Cuts off EAD eligibility/validity
  - For those without other status, they are now vulnerable to removal proceedings



# Operation PARRIS (revetting)

- USCIS announcement re: fraud investigation in MN
  - Target refugees admitted during Biden administration
  - CIS claims the purpose of revetting is to look for cases of fraud and national security threats
- What it means in practice
  - Detention of refugees
  - DHS interviews (unscheduled and/or demanded); looking for inconsistencies with refugee process
- Litigation efforts
  - Class action in MN – temporary preliminary injunction forbidding detention





# Administrative Pause

- Pause on adjudication of many immigration benefits for people from certain countries
- Exceptions
  - Applications related to maintaining proof of current immigration status
  - Benefits filed by people: performing necessary role in sporting events; where entry serves national interest; where requests are priority for law enforcement and ICE asked USCIS to adjudicate
- Practical Implications
  - Limited protection for application pending
  - Anticipated delays in correspondence and steps leading to adjudication





# Citizenship

- Scrutiny of pending naturalization applications
  - Home visits and interviews targeting those who requested fee waiver and/or sought to waive English/civics requirements
- De-scheduling interviews and oath ceremonies
  - Cancelling interviews/ceremonies and pulling individuals out of line
  - Statute requires naturalization decision within 120 days; limited recourse for clients with limited financial means
- De-naturalization efforts
  - Historically reserved for those who committed fraud or misrepresentation
  - Administration wants to expand these efforts





# USCIS as enforcement

- Purposeful separation of USCIS and DHS
  - Benefits administration vs. enforcement function
- Notice to Appear memo
  - USCIS issues when taking adverse action on an application; suspected allegations of fraud
- CIS officers given enforcement related powers (8 CFR Part 287)
  - USCIS personal can investigate and enforce violations of immigration law (i.e., issuance and execution of warrants, arrest of individuals, and carry firearms)



Questions?



# Contact us

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