



Illegal Immigrant Children Fail to Show at Immigration Hearings

Judge Michael Baird of the federal Dallas Immigration Court said on July 22 that 18 of the children whose cases he was scheduled to hear on that day didn't show up for court. The unaccompanied children were among 20 from Honduras, El Salvador, and Guatemala who were set to appear in Baird's court for initial deportation hearings.



The *Dallas Morning News* cited Baird's statement describing the absentee rate that day as "highly unusual" — so high that he reset the hearings for August 11 rather than possibly issuing a deportation order.

Baird said he was concerned that the children may not have received proper notice of the hearings from the federal government. Attorney Lynn Javier of the U.S. Department of Homeland Security agreed that it was "prudent" to reset the hearings, the Dallas paper reported.

Testifying before the Senate Homeland Security Committee studying the illegal immigration crisis on July 9, Juan Osuna, director of the Executive Office of Immigration Review at the Department of Justice, said that about 46 percent of all children, whether accompanied or unaccompanied, who are apprehended by authorities fail to show up for hearings before immigration judges.

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The *New York Post* reported that Osuna told the committee that his office did not have completely accurate data for the court appearance rate for the unaccompanied children, so the non-appearance rate could be even higher.

Osuna noted that even minors who obey the law face lengthy waits inside the United States because immigration courts are overloaded with a record 375,000 cases. "We are facing the largest caseload that the agency has ever seen," Osuna testified before the committee.

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, which required judges to ascertain that minors would not be sent back into the clutches of traffickers in their homelands before deporting them, makes it nearly impossible to deport unaccompanied minors to Central America without first letting them appear before an immigration judge.

Though possibly the act was passed with good intentions, the authors of the act did not anticipate the massive increase in the numbers of such unaccompanied minors, which has clogged the immigration courts to the point of eliminating their effectiveness.

During a press briefing on July 16, White House Press Secretary Josh Earnest said that those who do not qualify for asylum will be deported: "This administration is also committed to enforcing the law. And that means that after going through that due process proceeding, if an immigration judge determines that an individual does not qualify for humanitarian relief, then that person will be repatriated and sent



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back to their home country.”

“Based on what we know about these cases, it is unlikely that most of these kids will qualify for humanitarian relief,” Earnest said in another briefing a few days later. “And what that means is they will not have a legal basis for remaining in this country and will be returned.”

However, given the lengthy period of time between apprehension and the hearing, and the fact that the illegal immigrants are free to go wherever they wish during the interim, it is not surprising that the no-show rates at the determination hearings is apparently so high. And naturally, illegal immigrants who do not appear in immigration court cannot be deported.

Mark Greenberg, the acting assistant secretary for the Administration for Children and Families at Health and Human Services, told the Senate committee that the detained children are required to be held in the least restrictive environment, which means that about 95 percent are released to family or adult sponsors in the United States pending court hearings.

However, reported the *Post*, after being questioned by Senator Tom Coburn (R-Okla.), Greenberg admitted that it is the Obama administration’s policy to not check the immigration status of the relatives who sponsor the children. “The likelihood they [the children] are going to show up before a judge is markedly diminished because it exposes [their relatives to possible deportation],” Coburn said.

A report from Scripps News on July 23 cited research conducted at Syracuse University indicating that over the last nine years, between 31 and 38 percent of child immigrants from Guatemala, El Salvador, and Honduras failed to appear in court.

However, because of the rapid increase in juvenile illegal immigration over the past year, obtaining up-to-date, accurate figures is extremely difficult. Almost every authority cited believes the numbers are high, however.

Senator Jeff Flake (R-Ariz.) told the PBS *NewsHour* earlier this month that 90 percent of child migrants do not appear in court. Interestingly, Flake was a member of the Gang of Eight that drafted the “immigration reform” bill passed by the Senate last year — a bill that Sen. Ted Cruz (R-Texas) charged “would give amnesty to an estimated 11 million illegal immigrants with no guarantee of a secure border.”

Judge Dana Leigh Marks of San Francisco, who has been deciding immigration cases since 1987 and is president of the National Association of Immigration Judges, was quoted in a July 22 Reuters report as saying: “We are reaching a point of implosion, if we have not already reached it.”

Reuters noted that Marks, who is one of the 243 judges presiding over 59 immigration courts in the United States, is setting hearing dates as far in the future as 2018.

It is obviously not realistic to expect that a young illegal immigrant, probably being shifted around from one illegal immigrant family to another, will appear at a court hearing four years from now.

Until the flow of illegal immigrants is stopped by a combination of eliminating the incentives that draw them here, making the border more secure, and providing for speedy deportation, the immigration court nightmare can only grow worse.

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