

American Immigration Council Sues U.S. Immigration Agencies Over Asylum “Clock”

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WASHINGTON, D.C.—Last week, the American Immigration Council’s Legal Action Center filed a nationwide class action lawsuit against U.S. Citizenship and Immigration Services and the Executive Office for Immigration Review in federal court in Seattle. The lawsuit alleges widespread problems with the asylum “clock”—the system that the government uses to determine when immigrants with pending asylum applications become eligible to obtain work authorization in the United States. The class certification motion describes the nationwide impact of these policies.

The complaint, co-filed with the Northwest Immigrants Rights Project, Gibbs Houston Pauw, and the Massachusetts Law Reform Institute, was submitted on behalf of untold numbers of asylum applicants wrongfully denied work authorization due to unlawful agency policies and practices. The named plaintiffs include asylum seekers who have pursued their cases for years without work authorization—including a man from China who initially filed his asylum application in 2003.

With limited exceptions, federal law requires USCIS to grant work authorization to any person with an asylum application pending for 180 days. In calculating this period, however, USCIS relies on determinations made by immigration judges who work for EOIR. As a result, arbitrary EOIR policies on when the “clock” should start and stop—combined with growing backlogs in U.S. immigration courts—have unlawfully prevented asylum seekers from working. The suit alleges these policies violate the Constitution, federal statutes, and governing regulations.

“This lawsuit targets a problem that has plagued asylum applicants for far too long,” said Benjamin Johnson, Executive Director of the American Immigration Council. “Asylum seekers who have fled persecution in their native countries and have made good faith efforts to comply with the asylum process should not be arbitrarily deprived of the ability to earn a living while their applications are pending. This lawsuit challenges the longstanding disregard for basic due process protections for this vulnerable population.”

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