

Immigration court backlog adds to border crisis

On a June morning last year, Alex Alvarez left his home in the lush Salvadoran region of Morazan to make the now-familiar journey of tens of thousands of other young immigrants from Central America.

There was no father or mother to send him off with a blessing, nor any waiting for him at his destination in the United States. The only blessing that mattered now would come from an immigration judge in the boxy, orange-brick courthouse where the now-18-year-old sat one morning last week — his first court hearing since arriving more than a year ago.

Also on the docket were 12 Honduran, two Guatemalan and eight Salvadoran children who had already been released from detention. A smaller group of children was due to appear in the afternoon. Those boys and girls, staying at a Baptist shelter, showed up smartly dressed, the boys in dress shirts and ties.

"I told him the important thing for him is to keep studying," said Alvarez's brother-in-law Mario Olmos, 37, who drove him to court that day. "If you don't study, the judges don't see the point of you staying in this country."

He hoped, Olmos said, that Alvarez wouldn't be in the immigration court system as long as he himself has: three years and counting.

On Wednesday, Justice Department officials announced plans to speed up court proceedings for unaccompanied youths and families, whose accelerated influx across the Southwest border in recent months threatens to paralyze a court system already hampered by congestion and delay.

The new policy will assign a greater proportion of the nation's 243 immigration judges to hear juvenile cases, either at the border or by video, and appoint new temporary judges to help handle a surge of at least 57,000 unaccompanied minors into the U.S., most of them from Central America, since Oct. 1.

But a lawsuit filed Wednesday by a coalition of public interest groups could inject further delays into the system, calling for juvenile immigrants to be guaranteed legal representation before their deportation cases can proceed in immigration court.

The Obama administration has sought to hammer home a message that children who are crossing the border illegally will be sent back.

Alex Alvarez, then 17, left his home in El Salvador and arrived in Texas last year. His first immigration court hearing finally occurred last week. (Hector Becerra / Los Angeles Times)

But the number of cases already pending in the nation's 59 immigration courts — a caseload that has more than doubled in the last 15 years — and a long history of delays that can stretch as long as five years raise questions about whether federal officials will be able to make good on their pledge to speedily deport new immigrants not eligible to remain in the U.S.

The average case takes 578 days to make its way through the immigration courts, with 366,758 cases currently pending, according to federal court records compiled by Syracuse University.

A law signed by President Bush in 2008 makes it difficult to repatriate unaccompanied minors to Central America without letting them appear before an immigration judge.

But the current court system involves "processes layered upon processes layered upon processes," said Jonathan Ryan, executive director of Raices, a nonprofit group that provides free or low-cost services for child immigrants, families and refugees.

Once in court, many things can happen that can drag cases out for months or longer. A day in immigration court in San Antonio last week provided just one example of how this can happen.

There were 32 cases on the docket in the courtroom of Judge Anibal D. Martinez. But as the morning progressed, it became apparent that many of the children and their lawyers were not showing up. "Every other kid is MIA," immigration attorney Linda Brandmiller whispered from a bench at the back of the small courtroom.

Brandmiller said a legal organization had misinterpreted a message from the court and sent out an email that caused confusion, leading attorneys and their clients to believe that many of the cases would not be heard that day.

Most of the hearings for children that did arrive resulted in the scheduling of additional hearings, usually several months away. Martinez warned the children, most of whom listened to the proceedings on headsets through a translator, that he might have to order their removal from the country if they were absent.

Just before 9 a.m., Cristian, a 17-year-old from El Salvador with spiky hair and a checkered shirt, sat before the judge. His legal representative said the teen had been a victim of human traffickers and needed to have his case proceed on a confidential basis. The judge set a hearing for late October and waived the requirement that Cristian be present.

Soon, Alvarez — wearing a light blue polo shirt, black jeans and white leather shoes — was sitting before the judge, with legal representative David Walding at his side. Alvarez said he left a verdant region of El Salvador that was the scene of the 1981 "El Mozote" massacre, in which the Salvadoran army killed more than 800 civilians in an anti-guerrilla campaign. His father died when he was about 5 years old, he said, and his mother when he was about 12, both from illness. Alvarez said he left as a result of pressure from gangs that had forced other boys to join.

He crossed the border last August, and after a brief stay at a warehouse got caught while walking with a group of immigrants near McAllen, Texas. Days later he was flown to a detention facility

in Chicago, though his siblings in the U.S. were in Austin, Texas. Walding said that required him to apply for a change of court venue, which took a couple of months.

Another delay was introduced when Walding applied in March for Special Immigrant Juvenile, or SIJ, status, based on his client having been an orphan and essentially abandoned. SIJ status can help pave the way to permanent residency, but a state court would have to make the finding.

Martinez set Alvarez's next hearing for Oct. 29, but excused him from appearing in court then so he could go to school.

The night before the court hearing, about 50 volunteers gathered at a legal justice center for a meeting run by Raices, the immigrant service group, which has been holding screenings of children at San Antonio's Lackland Air Force Base, where more than 1,000 young immigrants at a time have been held in a hastily organized detention center. Ryan, the organization's director, said the screenings were key to linking immigrants with free attorneys and determining what kind of relief the minors might qualify for.

He told the gathered that they should be prepared to hear shocking things, and asked them to mute their reactions.

"You cannot display your own shock. You can't really display your own horror," Ryan said. "You're going to make the kid think they said something wrong because they upset you."

[The current immigration court system involves] processes layered upon processes layered upon processes. - Jonathan Ryan, executive director of the immigration legal advocacy group Raices

The next day, sitting in the back of the courtroom, Ryan said there was a pieced-together, almost improvised quality about the legal representation the child immigrants were getting. Volunteer lawyers from organizations such as Raices are important, but they are a "poor replacement for a public defender model," he said.

As court came back into session at about 1 p.m. and Judge Martinez took his seat, a handful of protesters waved signs — one reading "No deportation without legal representation" — in the muggy heat outside the building.

There would be no deportation orders because of the confusion caused by the email, Martinez said. He told one 17-year-old Guatemalan boy seeking asylum that he knew he took "a long trip for a better life" and advised him that if he were lucky enough to win legal residency, it could all unravel if he committed a crime.

He urged him to "get an education while here and make the most of your life," reminding him that American taxpayers were paying for that.

The last hearing was for a curly, red-haired 17-year-old Honduran boy whose SIJ status had been previously approved. His attorney successfully petitioned to close the teenager's court case — he was clear to remain in the U.S. and apply for lawful permanent residence.

Martinez reminded him that all could be lost if he broke the law. "Good luck to you, sir," the judge said.

Later that day, Alvarez got a message back in Austin. On the very day of his first court hearing, his own SIJ application had been approved.

<http://www.latimes.com/nation/la-na-immigration-court-20140710-story.html>