

Trump Takes The Wrong Path On Expedited Immigrant Removals

Jordan Bruneau

July 26, 2019

The Trump administration issued a new rule this month to expedite deportations for illegal immigrants who have been living in the country for less than two years. Prior to the rule, expedited removal, which forgoes judicial oversight and appeal, only applies to illegal immigrants who have been in the country for fewer than 14 days and are within 100 miles of the border.

The order is seemingly unconstitutional. The Fifth Amendment to the Constitution guarantees, “No person shall be ... deprived of life, liberty, or property, without due process of law.” The 14th Amendment makes a similar due process demand of the states.

Note how due process rights are extended to every “person,” not merely every citizen or legal resident. The Supreme Court has repeatedly ruled that illegal immigrants are persons who deserve constitutional rights.

The founders purposely used the word “person” here instead of citizen. James Madison, who was a main drafter of the constitution, wrote, “If aliens had no rights under the constitution, they might not only be banished, but even capitally punished, without a jury or the other incidents to a fair trial.” He continued, “An alien has, besides all the common privileges, the special one of being tried by a jury.”

Activist groups promise to sue the Trump administration over the rule, and legal experts say they have a strong case.

Instead of deploying government agents to serve both executive and judiciary functions by rounding up productive yet paperless immigrants and quickly deporting them, immigration enforcement should direct its scarce resources to high-value targets: Those who pose a threat to public safety.

Even people who believe that the U.S. should liberalize its immigration laws don’t think that this generosity extends to violent criminals and gang members. “I don’t think there’s a member of Congress — Republican or Democrat — who believes that if somebody commits an egregious crime, that they shouldn’t be deported,” said Rep. Tony Cardenas (D-Calif.), who is the son of immigrants. “Public safety is a very important issue to all of us.”

And while illegal immigrants commit crimes at a lower rate than citizens, thanks to the failed War on Drugs there’s been an expansion of violent drug cartels that are partially staffed by

illegal immigrants. Executive orders to quickly banish illegal immigrants from the country should focus on removing these individuals.

Yet despite the real threat posed by gangs and this bipartisan agreement, enforcement hasn't adequately focused on them. According to the Cato Institute's analysis of federal data, only about 10 percent of deportees over the past several years have committed violent or property crimes. This data is in stark contrast to the rhetoric from President Trump and immigration restrictionists who portray deportations as a tool to protect public safety.

An order to expedite the deportation of violent criminals and boost their small representation among those deported might not even be challenged in court because no one wants menaces in their communities. Especially other immigrants, to whom they give a bad name. "Get rid of the bad ones, I say. Deport the criminals and leave the rest of us alone, the ones who are working and don't do anything," is the perspective of one immigrant that's fairly representative.

Yet everyone should want the humble and hardworking people who make up the vast majority of the illegal population. Witness the scene in Nashville earlier this week, when neighbors formed a human chain to protect their undocumented neighbors from arrest by ICE. These weren't liberal activists, but ordinary folks.

"They don't bother anybody. Our kids play with their kids. It's just one big community. And we don't want to see anything happen to them," said neighbor Angela Glass. "To me, they're considered Americans." There's an innate American instinct to protect our neighbors, whether or not the federal government deems them legitimate.

By pursuing expedited removal of such peaceful and productive illegal immigrants, the Trump administration will invite court challenges and ill-will from many ordinary Americans. However, Trump could expedite illegal immigrant removals and receive support from both libertarians and liberals if he redoubled efforts to expunge the low-hanging and rotten fruit: violent criminals.