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Navigating Immigration Court System Can Be Harder For Immigrants In Rural And Mountainous Areas

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The backlog in US immigration courts is now over 850,000 cases long. People can wait years for their hearings. And that can be a long time to pay for a lawyer and to make appearances in court. Both of these things can be much harder for immigrants living in rural and mountainous parts of the West.

That's the case for Javier Dominguez. He lives with his wife and children in the small community of Dillon, Colorado, just over the Continental Divide past Breckenridge. He came here illegally from Mexico in his late teens back in 1994. All but one of his five kids were born here.

Things were going well for him and his family until 2009 when tragedy struck. One of his kids contracted swine flu and died suddenly. Dominguez fell into deep depression and his life spiraled out of control. It was a DUI in 2015 that put him on the radar of U.S. Immigration and Customs Enforcement.

“Sometimes we make mistakes,” said Dominguez. “Nobody’s perfect.”

But he was also quick to say “I’m not running away from the law. The law is the law and you have to respect that.”

Dominguez said he’s turned his life around and he’s trying to make things right for the rest of his family and his community now. And he wants to gain legal status.

All of this was on the line in late January 2019. The government had just reopened after the five-week shutdown. And Javier Dominguez was frantically trying to get the Denver Immigration Court for his final immigration hearing. I-70, the main artery through the Rocky Mountains to Denver, was closed because of a giant winter storm. Dominguez likes living in the small quiet community of Dillon but it’s about an hour and a half from Denver on a good day. He knew he couldn’t miss his court date.

Being absent or even late to an immigration hearing can mean risking immediate deportation. “I mean you don’t show up on time and you missed it.” Dominguez said. “You miss everything that you were working on.”

He was getting close when he got a call from his Denver-based lawyer telling him the Denver courthouse was also closed due to weather.

“So I was like ‘Wow,’” said Dominguez, “So I gotta go back in pretty bad conditions.”

Later, he found out his hearing had been rescheduled for the year 2021.

Multi-year delays like this are typical for immigration court these days. But Dominguez says that outcome was better than the alternative. If the court had stayed open and he’d missed his hearing or been late because of bad roads, he might have lost his years-long battle in one stroke of bad luck. Instead he feels lucky. Now he has more time to prepare.

But the delay also comes with more uncertainty, more legal costs, and more transportation obstacles for rural residents like him. According to the Census Bureau, roughly one in 20 non-citizen immigrants live in rural areas like Dominguez’s.

Here in the Mountain West, the numbers are higher. It’s roughly one in 15.

The courts are also far and few between here. There are only three federal immigration courts for non-detained immigrants across our more than 400-million-acre region. And they’re all in the big cities – Denver, Salt Lake, and Las Vegas.

Immigration lawyer, Karen McCarthy, says it’s also harder to find a good immigration lawyer in remote areas. “It can be really challenging to find a law firm that does immigration work,” she said.

McCarthy’s firm is one of the few. She practices in the county where Javier Dominguez lives. She also practices part time in the Denver metro area.

And she said if an immigrant finds a lawyer there’s rarely help with compensation. Unlike the criminal justice system, there are no court-appointed lawyers for immigration court. You either find and pay for a lawyer or you go without.

And then there’s the hurdle of transportation.

“We have clients that may be traveling seven hours across the state to get to court,” said McCarthy.

That’s often without their own car or a license or any access to public transit. And sometimes the hearings they are traveling for are a mere five-minutes long.

McCarthy would like to see a more streamlined system available to immigrants, with more courts, judges, and attorneys ready to process cases.

But Alex Nowrasteh said under current immigration laws that might not actually benefit immigrants like Dominguez. Nowrasteh is with the libertarian think tank, the Cato Institute.

“The immigration courts are going to kick a lot of people out of the country,” said Nowrasteh, “so a backlog of cases and a scarcity of judges makes it so that they can stay in this country a little bit longer.”

On the flipside, he said, “if you have people who are in limbo who think that they have a really good shot at being here in the United States, then waiting years longer is a significant downside and a significant cost to them to getting on with the rest of their lives.”

Nowrasteh said he would support investing in more judges and courts as part of comprehensive immigration reform. And for rural areas like Dominguez’s mountain town, he suggested “maybe there could be like roaming judges like they used to be on circuit courts that can move around these different towns.”

A former immigration judge agrees. Andrew Arthur is now a Fellow with the conservative-leaning Center for Immigration Studies.

“We need more courtrooms, we need more judges, we need more staff, we need more clerks,” said Arthur.

He also thinks rural cases could be sped along by using video conferencing instead of demanding immigrants always show up to court in person. It’s worth noting that the constitutionality of that approach was challenged recently in federal court after it was tried in New York state last year.

Arthur agrees with Nowrasteh’s claims that bottlenecks and delays tend to benefit the immigrants. But he’s not happy about that.

“The Supreme Court has seen it that way as well,” he said. “They’ve found that every continuance in an immigration matter benefits the alien.”

He said Congress just needs to dedicate more funding for the immigration courts. All agree if this shortfall isn’t addressed, the system will remain inefficient for rural and urban immigrants alike.