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Shutdown hurt 37,000 immigrant cases

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LOS ANGELES – The federal government shutdown last year delayed more than 37,000 immigration hearings by months or years for immigrants already waiting in lengthy lines to plead for asylum or green cards.

While the country's immigration courts are now running as usual, immigrants who had hoped to have their cases resolved in October so they could travel abroad to see family or get a job have instead had their lives put on hold. Many had already waited years to get a hearing date in the notoriously backlogged courts, which determine whether immigrants should be deported or allowed to stay in the country.

Now, some hearings have been pushed into later this year, and thousands more have been shelved until 2015 or later, according to emails obtained by The Associated Press.

“This is a big task, and not one that will be accomplished quickly, especially given our current staffing shortage,” Chief Immigration Judge Brian O’Leary wrote in an Oct. 17 email to immigration judges and court administrators obtained through a Freedom of Information Act request. A day earlier, O’Leary wrote in a separate email to staff that the tally of deferred hearings had surpassed 37,000 and many immigrants probably wouldn’t get their cases heard until at least 2015.

The delays triggered by last year’s federal government shutdown that closed national parks and furloughed government workers has further strained an immigration court system already beset with ballooning caseloads, yearslong waits and a shortage of judges. The impact on immigrants has been uneven. Those with strong cases for staying in the U.S. are left in limbo for even longer, while those who face likely deportation have won more time in the United States.

“For some people, it probably was a huge reprieve,” said Andres Benach, an immigration attorney in Washington. “Just not my clients.”

About 70 percent of all immigration court hearings were put on hold, and all involved immigrants who were not held in detention centers. The rest — immigrants in detention facilities — proceeded with their hearings as scheduled. About half of immigrants in detention have criminal records.

The situation is especially dire for asylum seekers who may have left family behind in dangerous conditions. They cannot apply to bring relatives to the United States unless they win their cases.

For others, the delay means more uncertainty. Gladys Hirayda Shahian said she has been trying to obtain a green card through her American husband for more than a decade. After getting turned away at the airport after a trip back to her native Guatemala in the 1990s,

Shahian said she crossed the border illegally to reunite with him and filed her residency application.

Since then, the 42-year-old from Encino, Calif., has been unable to take her U.S.-born children to visit family in Guatemala or accept a job outside her home. After waiting nearly two years to get an immigration court date in Los Angeles in October, she now has to wait until August because of the shutdown.

“Every time I go to that court, I come out broken, in tears,” said Shahian, who has been married for two decades and helps run her husband’s clothing design business.

Immigration judges can grant asylum, green cards or other forms of relief — or order someone deported for breaking the country’s immigration laws. About half of immigrants were given deportation orders in immigration court rulings handed down since October, according to a report by the Transactional Records Access Clearinghouse at Syracuse University.

The courts overseen by the Justice Department’s Executive Office for Immigration Review nearly always have long wait times for hearings. As of January, more than 360,000 immigration court cases were pending for an average of 573 days, according to TRAC.

Oscar, who came to the country as a 17-year-old last year from El Salvador, has been waiting for a decision on whether he can continue to live with his sister in Los Angeles - or be sent back and face street gangs that killed his mother and threatened to kill him if he didn’t join their ranks. His lawyer requested that his last name not be used out of fear for his safety if he is deported.

Oscar is seeking legal status through a program that helps foreign children in the United States who have been abused or abandoned. A hearing on his case was supposed to happen in October, but now has been delayed until June or later, leaving him to worry about his future.

“I’m afraid they’re going to send me back,” he said.

Immigration Judge Dana Leigh Marks said she doesn’t have two weeks open on her calendar in San Francisco’s immigration court for merit hearings until June 2017. And she can’t just bump people with court dates this year, because they’ve also been waiting for their day in court.

“You have this very delicately balanced system. Now we have this added dysfunction to cope with on top of that,” she said. “I just think the ripple effect is going to be continuing for a while.”

Some immigration lawyers said the shutdown caused heartache for many clients, but is par for the course in an overburdened system. Similar problems occur when a judge is sick or winter weather closes a courthouse.

“The backlog will keep on coming, whether it was shut down or not,” said Andrew Johnson, an immigration attorney in New York. “You just got bad luck if you were one of the ones who were hit during that time.”

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