

IJs Should Exercise Authority to Halt Proceedings against Noncitizens with Serious Mental Disabilities

LAC Files Amicus Brief Supporting Termination of Removal Proceedings

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Washington D.C. - This week, the American Immigration Council's Legal Action Center (LAC) and Texas Appleseed filed an [amicus brief](#) [1] with the Board of Immigration Appeals (BIA) supporting Immigration Judges' authority to terminate removal proceedings against noncitizens with serious mental disabilities where a full and fair hearing would be impossible. Because immigration courts lack many of the due process protections that exist in other areas of our judicial system, more specific safeguards are necessary to protect the most vulnerable populations.

The LAC and Texas Appleseed filed the brief in the case of B-Z, a longtime legal permanent resident diagnosed with paranoid schizophrenia, who could not understand the purpose of the proceedings, assist counsel with his defense or present coherent testimony. The brief argues that immigration courts should adopt standards for evaluating mental competency similar to those employed in federal criminal or civil trials. Furthermore, Immigration Judges should be permitted to appoint counsel where non-citizens with serious mental disabilities are not competent to proceed on their own. Additional safeguards, including the appointment of a guardian ad litem, may also be required for noncitizens who are so severely incapacitated that they cannot understand and assist with their hearings even with the assistance of counsel. Finally, the brief contends that termination is proper where no conceivable set of safeguards would enable the respondent to participate meaningfully in proceedings and the record supports some inference of eligibility for relief.

"Given the high stakes and complex issues involved in removal proceedings, Immigration Judges must be allowed to take whatever steps are necessary to ensure that no one is wrongfully deported," said Melissa Crow, Director of the Legal Action Center.

B-Z is represented by Rachel Kling of the Florence Project in Arizona. Texas Appleseed was represented by attorneys at Akin Gump Strauss Hauer & Feld, LLP, in Washington, D.C. Human Rights Watch and Physicians for Human Rights also filed amicus briefs in this case.

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[1] <http://www.legalactioncenter.org/sites/default/files/docs/lac/B-Z-amicus-3-15-11.pdf>

[2] <mailto:wsefsaf@immcouncil.org>

[3] <http://www.americanimmigrationcouncil.org/sites/default/files/docs/Judges-Mental-Disabilities-3-17-2011.pdf>

