



LEGAL ACTION CENTER

AMERICAN IMMIGRATION COUNCIL

For Immediate Release

Legal Action Center Files Brief Seeking Greater Safeguards in Removal Proceedings for Immigrants with Mental Disabilities

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Washington D.C. - Earlier this week, the American Immigration Council's Legal Action Center (LAC), the American Immigration Lawyers Association, and the Pennsylvania Immigration Resource Center filed an [amicus brief](#) with the Board of Immigration Appeals (BIA) urging the government to protect the rights of immigrants whose mental disabilities prevent them from participating meaningfully in their own removal hearings. Nearly [one in six](#) individuals in immigration custody have some form of mental illness, and there have been [reports](#) of mistaken deportations of U.S. citizens with mental disabilities. "This is particularly disturbing given that these immigrants are not granted court-appointed counsel in removal proceedings" said Melissa Crow, Director of the Legal Action Center.

The BIA is currently considering a case involving a noncitizen with mental disabilities and sought input from the LAC on a range of questions relating to procedures for adjudicating this and similar cases. The LAC urged that a single case, which does not raise fully all the issues that need to be resolved, is not the proper forum for deciding such complicated issues with far-reaching implications. Instead, the LAC argued that a rulemaking process, with outreach to a broad spectrum of stakeholders, including disability rights advocates, mental health professionals and social service providers, would be a more appropriate way to proceed.

While the U.S. Supreme Court has repeatedly addressed the rights of defendants with mental disabilities during criminal trials, no comparable guidance exists for immigrants with mental disabilities during removal proceedings. The Immigration and Nationality Act charges the Attorney General with prescribing safeguards in removal proceedings to protect the rights and privileges of certain immigrants with mental disabilities. At a minimum, such safeguards must include counsel. Additional safeguards, including the appointment of a guardian, friend or relative, may also be required for immigrants whose disabilities are so severe that they cannot communicate with their attorneys. If the requisite safeguards are unavailable, termination of proceedings is appropriate. The Board also received amicus briefs from the [Capital Area Immigrants' Rights Coalition](#), [Human Rights Watch](#), [Physicians for Human Rights](#), as well as [Texas Appleseed and Advocacy, Inc.](#)

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For press inquiries contact Wendy Sefsaf at 202-507-7524 or wsefsaf@immcouncil.org
or [join our mailing list](#).