



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Maryland

March 17, 2020

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5107 Leesburg Pike, Suite 2500
Falls Church, VA 22041
EOIR.IJConduct@usdoj.gov

The Honorable David M. Jones
Assistant Chief Immigration Judge, Baltimore
Executive Office of Immigration Review
31 Hopkins Plaza, Room 440
Baltimore, MD 21201

Re: Administrative Complaint regarding IJ David Crosland consideration
of COVID-19

Dear Office of IJ Conduct and Professionalism and ACIJ David Jones:

Over the past several weeks, the country has been in the midst of a national health crisis, seeking to contain the spread of COVID-19. In Maryland, the outbreak has resulted in swift action to address the spread of the virus, including closures, delays, and efforts to limit social interaction. This is especially important for vulnerable populations over the age of 60 and individuals with underlying health conditions. In Maryland, Governor Larry Hogan issued a State of Emergency, prohibiting gatherings over 50 people, restricting operations of non-essential businesses, as well as instituting various other measures designed to limit social interaction and contain the spread of COVID-19. On March 15, 2020, the Centers for Disease Control and Prevention urged the cancellation of events with 50 people or larger. On March 16, 2020, the Trump Administration's Coronavirus Task Force announced new guidelines restricting gatherings of more than ten people. The EOIR has postponed Master Calendar hearings, and federal and state courts have closed and postponed hearings to prevent the virus from spreading. In an unlikely joint letter, the American Immigration Lawyers Association, the Immigration Judges' union, and ICE's union have sent a letter requesting that immigration courts be shut down across the country.

In order to protect the health and well-being of immigration practitioners, their clients, the court staff, DHS employees and the immigration judges themselves,

many immigration practitioners are filing emergency motions to continue their clients' individual hearings in an effort not to physically enter the immigration court building and risk spreading COVID-19 or contracting it themselves.

IJ David Crosland has rejected these concerns and is categorically denying emergency motions to continue due to COVID-19.

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After filing an emergency motion to continue an individual hearing that was supposed to be heard this week, one immigration practitioner¹ was called by IJ Crosland's clerk, stating that IJ Crosland has received many such motions, and is inclined to deny them all. The clerk also inquired whether the lawyer had contracted COVID-19 herself, or if she was just scared of it, and whether she had been tested. The irrelevance of this inquiry aside, categorical denial of emergency motions without individual review is a dereliction of duty for an immigration judge, and is a complete disregard for the seriousness of a global pandemic. Since this communication with IJ Crosland's clerk, IJ Crosland has denied the this lawyer's two emergency motions to continue her two clients' cases, and noted that individual hearings will proceed as scheduled. He is justifying holding a hearing because "the Judge, who [sic] is substantially older than is counsel for the respondent"² and she and her clients will therefore be required to attend hearings later this week and next week despite the lawyer's being in a vulnerable population herself. Another immigration practitioner recounted that earlier this week, **IJ Crosland ordered his client removed *in absentia* because the client was concerned for his health and was afraid to go to the immigration court.** IJ Crosland denied the emergency motion to continue the individual hearing, despite arguments by the immigration practitioner that we are in the midst of a global pandemic and cited the concerns of his client. Witnesses include the DHS attorney and the court interpreter.

When this practitioner attempted the same emergency motion to continue for another client before IJ Williams, it was granted.

IJ Crosland is forcing practitioners and their clients into the impossible choice of either risking their health and the health of the Maryland community for no justifiable purpose, or have their clients ordered removed *in absentia*.

Categorical denials of emergency motions to continue aimed at limiting the exposure of COVID-19 is inappropriate, unethical, and must be ceased. It is dangerous for court staff, it is dangerous for immigration practitioners and the immigrant community, and it is dangerous for the immigration judges themselves.

¹ Out of a concern for retaliation, the immigration practitioners cited in this letter declined to be mentioned by name, but have reviewed and agreed to having this administrative complaint filed. If the Office of Chief Immigration Judge and the Office of the Assistant Chief Immigration Judge David Jones requires more information to sustain a complaint, we will provide that information, but we request that their identities be made confidential.

² Quoted from the denial of the emergency motion to continue.

IJ Crosland is not free to disregard the advice of the CDC, the Trump Administration's Coronavirus team, the Maryland Governor's calls for social distancing, and the public health. He is not a public health expert and he should heed the advice of those who are. As a judge, he has the unique responsibility of caring for those who enter his courtroom, and he is encouraging the spread of a deadly contagion by forcing people to physically attend their hearings in a blanket denial of emergency motions to continue cases.

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We urge you to address this unacceptable situation immediately.

Please do not hesitate to reach out to me with questions and concerns regarding this complaint.

Sincerely,



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