

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

HANAD ABDI; JOHAN BARRIOS RAMOS;
on behalf of himself and all others similarly situated,

Petitioners,

v.

KIRSTJEN NIELSEN, in her official capacity as
Secretary of U.S. Department of Homeland Security;
THOMAS BROPHY, in his official capacity as Acting
Director of Buffalo Field Office of Immigration and
Customs Enforcement; JEFFREY SEARLS, in his
official capacity as Acting Administrator of the
Buffalo Federal Detention Facility, and JEFFERSON
SESSIONS, in his official capacity as Attorney
General of the United States,

Respondents.

**DECLARATION OF
DAVID HAUSMAN**

Case No. 17-cv-721 (EAW)

DECLARATION OF DAVID HAUSMAN

I, DAVID HAUSMAN, declare under penalty of perjury, pursuant to 8 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney at the American Civil Liberties Union Immigrants' Rights Project. I am also pursuing a PhD in Political Science at Stanford University. My PhD dissertation involves identifying systemic patterns in the outcome of immigration and other agency adjudications.
2. I submit this declaration to inform the Court of case outcomes for the bond subclass in the above-captioned case.
3. For my calculations, I used spreadsheets I downloaded from the EOIR website—www.justice.gov/EOIR. I am familiar with the spreadsheets and the data contained therein. Before EOIR published this dataset online, I used to receive it on a periodic basis through requests I made under the Freedom of Information Act. I have been receiving this dataset periodically since 2014.¹

¹ Because of the sheer volume of the spreadsheets, which would be millions of pages in length if printed or saved in paginated format, it is impractical to submit copies to the Court. As a result,

4. The spreadsheets track immigration proceedings and record the detention status of individuals whose cases are pending or complete in the immigration courts and the Board of Immigration Appeals (BIA). In order to calculate the numbers below, I opened the EOIR spreadsheet tracking immigration court schedules and identified cases with a first hearing that took place at the Batavia immigration court. I then matched those entries, by case number, with the spreadsheets tracking immigration charges, proceedings (including case outcomes), bond hearings, and custody history.
5. Petitioners' counsel asked me to review cases for arriving asylum-seekers detained after passing their credible fear interviews ("CFI") for six months or more for several years prior to the entry of this Court's preliminary injunction on November 17, 2017.
6. To do this, I looked at all cases that started and ended at the Batavia immigration court between January 1, 2013, and November 17, 2017 where no bond hearing took place and that were marked as "detained" for the entirety of proceedings. Within that universe, I isolated those cases where the charges of inadmissibility matched the charges for arriving asylum-seekers who have passed CFIs and further limited the search to persons whose cases took longer than six months to resolve after the filing of the Notice to Appear, the charging document in immigration court.²
7. I found that 46 people had immigration cases who fit the criteria listed in paragraph 6.
8. 28 of the 46 individuals were represented by counsel at some point in their case (the remainder were *pro se*),³ and of those 28 individuals, 17 obtained the right to remain in the United States, representing an immigration case success rate of 61%.⁴ Of the remaining 18 individuals without counsel, only one person won his or her case.

pursuant to Federal Rule of Evidence 1006, this declaration contains a summary of the contents of the spreadsheets.

² My analysis may still be slightly over-inclusive in that it may include individuals who traveled on advance parole from the United States and were deemed inadmissible upon, or sometime after, their return. The only way to conclusively identify and exclude these individuals from this analysis is to receive additional data from the government that is not publicly available.

³ I counted an individual as represented by counsel if that individual ever had an E-28 form filed in his or her case. This is a conservative decision that likely overstates how many individuals had counsel throughout their case.

⁴ While during the period of my analysis 18 individuals were *pro se*, I understand that because of funding from the New York State legislature, every indigent detainee with a first appearance at the Batavia immigration court since 2017 has been, guaranteed counsel in their immigration case.

December 6, 2018
New York, New York



DAVID HAUSMAN