



IMMIGRATION

JUNE 19, 2017 5:38 AM

Federal prosecutors inaugurate 'express' deportations

BY ALFONSO CHARDY

achardy@nuevoherald.com

Until recently, foreign nationals convicted of a crime in federal court were told that immigration authorities would put them in deportation proceedings upon completion of their prison terms.

Not anymore.

Under orders from Attorney General Jeff Sessions, a champion of hard-line immigration enforcement, federal prosecutors are asking district judges to issue what are known as “judicial orders of removal,” which ensure that a convicted foreign national will be deported on completion of the sentence instead of being sent to an immigrant detention center to await proceedings in immigration court and then a deportation order from an immigration judge.

The new legal tactic shortens the wait time for deportation, bypasses backlogs in immigration court, saves the federal government money in housing and food in immigrant detention centers, frees up space in those centers for other detained foreign nationals and sends a message to immigrant communities that under President Donald Trump immigration enforcement is real.

Trump administration officials hope the judicial orders of removal lead to an assembly line of deportations straight from the federal penitentiary and back to the countries from where the foreigners came — a sort of “express deportation” system.

“This is a new era. This is the Trump era,” Sessions said in announcing the new measures, a way of saying that the new administration will enforce all immigration laws, particularly those that deal with deportation of criminals, and that more space in immigrant detention centers will be freed up to house more possible deportees.



Emotions boil over after Miami-Dade commissioners drop 'sanctuary' protections

Miami-Dade commissioners on Friday, Feb. 17, 2017, backed Mayor Carlos Gimenez's controversial decision to detain jailed inmates sought for deportation by the federal government, citing funding threats by President Donald Trump and ignoring hours of emotional testimony from residents who implored the board to stand up to the mayor.

José A. Iglesias - Miami Herald

Sessions' directive on judicial orders of removal was contained in his April 11 memo to all prosecutors, issued the same day of his "Trump era" speech at the Mexican border in Arizona. The memo also included directives to prosecutors about increasing the severity of criminal charges against border crossers, immigrants accused of document fraud or identity theft and foreign nationals who sneak back into the United States after having been previously deported.

On deportations, the Sessions' memo says: "At the sentencing phase of each federal case, prosecutors should seek, to the extent practicable, judicial orders of removal."

Several have already been issued in Miami federal court since Trump took office in January in cases involving sentencing of foreign nationals in felony cases.

For example, in April, U.S. District Judge Robert Scola issued a judicial order of removal in a Venezuelan arms shipment case, which he later retracted because of what he described as a "scrivener's error."

Scola's order came after he sentenced Alfredo Montilla Hernández, one of three Venezuelans who recently pleaded guilty in the case, to 40 months in prison.

After the sentence, Scola signed the judicial order of removal saying Montilla Hernández was to be deported to Venezuela as soon as possible.

"It is hereby ordered," so read Scola's original order, "that the defendant is ordered removed from the United States to Venezuela promptly upon his sentencing."

Scola's order departed from previous sentencing orders that typically told a foreign defendant to surrender to immigration authorities for deportation proceedings after completion of the prison term.

Montilla Hernández's attorney, Ricardo Hermida, said he had never before seen an order like that.

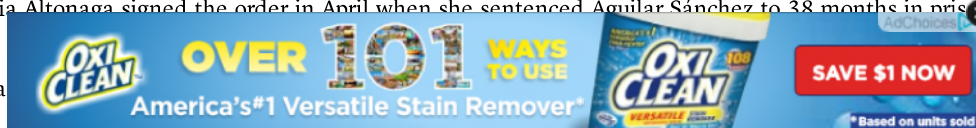
He was right, because such an order was one of a kind — an error.

When Scola withdrew the order, ascribing the first one to a scrivener's error, he replaced it with one of the first Trump-era judicial orders of removal issued in Miami federal court. It said, in part: "The defendant is ordered removed from the United States to Venezuela upon his sentencing, which removal is to be effected upon completion of his term of incarceration."

A similar judicial order of removal was issued in a related case, that of Abrahán José Aguilar Sánchez — another Venezuelan implicated in the arms shipment case.

U.S. District Judge Cecilia Altonaga signed the order in April when she sentenced Aguilar Sánchez to 38 months in prison for his role in the arms shipment case.

Judicial orders of removal are not new, but they have become more common in recent years as the federal government has tightened immigration law for decades.



But it was seldom used, since deportation proceedings became the purview of immigration courts under the Justice Department.



One of the Immigration Court rooms at the Krome Detention Center. José A. Iglesias - jiglesias@elnuevoherald.com

But as more and more deportable immigrants got ensnared in the immigration court system, delays in their cases became lengthier and lengthier. A new Government Accountability Office (GAO) report issued in June shows that the backlogs in immigration court are now so long that it may take years for a deportable immigrant in proceedings to receive a decision from a judge.

“The number of pending cases before...immigration courts grew by 58 percent from fiscal years 2012 through 2016 to a backlog of more than 500,000 cases pending at the start of fiscal year 2017,” according to the GAO report. “As a result, some respondents’ cases may take years to resolve.”

Respondent is immigration court parlance for defendant. A foreign national in immigration court essentially can expect one of two outcomes: a deportation order or an order from the judge allowing him or her to stay either with a green card or some other protection that prevents removal.

Session's directive to prosecutors April 11 also included other requirements. Among them: Making crossing the border without papers a second time a felony instead of a misdemeanor as before; and charging foreign nationals with document fraud and aggravated identity theft with a mandatory minimum sentence of two years in prison if found in possession of fake documents.

This is not evident in Miami federal court where cases involving foreign travelers arrested at Miami International Airport with fraudulent visas appear on docket sheets routinely.

Two recent cases involving a Colombian and a Salvadoran arrested at MIA in May for alleged visa fraud could be a local test for the toughened Sessions' immigration enforcement requirements.

One of the defendants, a maximum penalty of 10 deportation — essentially

An advertisement for OxiClean stain remover. It features the OxiClean logo, the text "OVER 101 WAYS TO USE", "America's #1 Versatile Stain Remover", and a red button that says "SAVE \$1 NOW". There is also a small "AdChoices" icon in the top right corner of the ad.

er being arraigned on a immigration authorities for

The second defendant, a Salvadoran accused of using fake papers to obtain a U.S. visa to work on a ship, was arraigned last week . She pleaded not guilty after initially signaling a willingness to plead guilty. The indictment lists a maximum penalty of 10 years in the federal penitentiary.

A tentative trial date has been set for July, but on Friday a new document in the case docket indicated that the Salvadoran may now reconsider again and plead guilty.

FOLLOW ALFONSO CHARDY ON TWITTER: @ALFONSOCHARDY



Immigration activist pleads for a stop to mass deportations

Nora Sandigo, a well-known activist who helps children whose parents have been deported, pleads for calm during the immigration debate at Miami-Dade County Hall on Friday, Feb. 17, 2017.

C.M. Guerrero - Miami Herald

Never miss a local story.

Sign up today for a 30 day free trial of unlimited digital access.

SUBSCRIBE NOW



SUGGESTED FOR YOU

COMMENTS ▾

SUBSCRIPTIONS

- Digital Subscriptions
- Digital Edition
- Home Delivery
- Vacation Hold
- Report a Delivery Error
- Miami Herald Rewards

SITE INFORMATION

- Customer Service
- About Us
- Contact Us
- NewsMedia in Education
- Public Insight Network
- Reader Panel

SOCIAL, MOBILE & MORE

- Facebook
- Twitter
- Google+
- Mobile Apps & eReaders
- Newsletters

ADVERTISING

- Place a Classified
- Media Kit
- Commercial Printing
- Public Notices
- Shopping

MORE

- Copyright
- Commenting Policy
- Privacy Policy
- Terms of Service

