

Immigrants' Deportation Cases Stumble Over U.S. Policy Change

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When the Department of Homeland Security announced last summer that some lower-priority cases should be shelved in immigration court through a process called prosecutorial discretion, Alexandru Ghilan looked like the perfect candidate.

The 29-year-old from Moldova had come to the United States on a work visa six years ago. He had applied for political asylum because of incarcerations and beatings he said he had endured as an activist protesting the former Communist regime in his eastern European home country.

Ghilan, who earned a law degree in Moldova, did not enter the country illegally and has no criminal record in the United States. He has worked and paid taxes since he came to the country. He has a wife and a 1-year-old daughter who is a U.S. citizen.

His asylum request has been denied: Communists no longer hold power in Moldova. He is appealing the case. Now, it has been passed over for administrative closure through prosecutorial discretion even though an immigration judge recommended that Ghilan be considered. If Ghilan had been granted that closure, he would no longer be living under the constant threat of deportation.

Government prosecutors aren't saying why some seemingly good fits for prosecutorial discretion, such as Ghilan, are being denied. But immigration attorneys are saying this is happening too often.

"It looks like it's a national problem," said Denver immigration attorney Bryon Large, who heard input from other lawyers from around the country during a recent meeting of the American Immigration Lawyers Association.

Figures collected by the American Immigration Council show that about 9 percent of 165,000 immigration cases reviewed since late last year have been suspended through the exercise of prosecutorial discretion.

The use of prosecutorial discretion became a directive in immigration courts last summer after U.S. Immigration and Customs Enforcement director John Morton announced that it would be used to help put the focus on cases that involve national security, public safety or border security.

Denver and Baltimore were designated pilot areas where all immigration cases were reviewed to see if they met the criteria for an administrative freeze. In Denver, 7,800 cases were reviewed. But many defendants are still awaiting word on their cases.

"We're not being told why some cases are being denied and why it's being granted in others," said Koby Polaski, the Denver immigration attorney representing Ghilan.

Ghilan said he will continue to fight to remain in the United States. He said his mother, who still lives in Moldova, has advised him it is not safe to return there because of continuing corruption.

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