

# RIO GRANDE VALLEY

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On a Monday morning in late January, a U.S. Customs and Border Protection (CBP) official escorted press to and from the courtroom. Seventeen asylum seekers occupied two rows of chairs set up behind a folding table and a television screen in the Brownsville Migrant Protection Protocols Immigration Hearing Facility's (Brownsville IHP) "Courtroom B" – a mobile trailer unit parked underneath the white tarps.

The immigration judge conducting proceedings via closed-circuit television in Harlingen revealed that at least one of the defendants present in the courtroom, a 45-year-old woman who fled Honduras with her daughter, had been classified as "Entry Without Inspection" (EWI).

Undocumented People having entered the United States prior to inspection by CBP are not supposed to be placed in MPP and should be subject to entirely different removal proceedings under U.S. immigration law.

This is according to attorneys with San Antonio Region Justice For Our Neighbors who filed a lawsuit on behalf of an MPP client in Matamoros in November. The 23-year-old woman had already entered the country and was returned to Mexico under MPP in violation of the law, according to federal court records.

Press remains barred from attending merits hearings – an integral part of the asylum process where applicants present evidence to substantiate fear or persecution or torture should they be denied asylum and removed from the U.S.

Nearly 60,000 asylum seekers have been placed in MPP proceedings and sent back to Mexico since the pro-



DENISE CATHEY/THE BROWNSVILLE HERALD

A brick wall and gate surround Brownsville's "tent court" system pictured Thursday, outside Gateway International Bridge. Hearings for asylum cases are conducted at the tent facilities in Brownsville as asylum seekers wait in Mexico following the Trump administration's Migrant Protection Protocols.

gram's initiation in January 2019, according to data from Syracuse University.

The same data showed that of the 59,241 documented MPP cases, only 187 have been granted relief – meaning that applicants were allowed to enter the country and may have been granted asylum.

Asylum seekers stuck in Mexico under the program are provided with a Notice to Appear (NTA) by U.S.-based immigration judges who hear cases remotely from immigration courts like those in El Paso and Harlingen.

They are considered to be in "detained" status and are not being granted bond hearings. Matamoros-based attorney Charlene D'Cruz recently confirmed that the government is not accepting bond payments in MPP cases as the website used to do so does not allow it.

In January, the two officials present in the courtroom for an 8:30 a.m. hearing included a security officer working as a bailiff and a clerk sitting at a computer desk. The clerk communi-

cated with the judge, an interpreter, and another court clerk via the closed-circuit connection.

Asylum seekers' ages ranged from 26 to 45. Some had minor children not present in the courtroom, and each had requested asylum in October.

Defendants confirmed that they spoke Spanish through a remote interpreter. According to recent reports, thousands of asylum seekers coming from countries like Guatemala speak Mayan languages and are forced to rely on for-profit translators throughout MPP proceedings.

Much of the hearing was held in silence while the immigration judge looked through papers from behind his desk in Harlingen. Occasionally, the camera would cut and jump as the connection weakened. The video's audio remained steady throughout proceedings.

The group appeared exhausted as the judge called cases one by one. Local advocates have noted

that those in attendance must present themselves at the bridge for inspection over four hours in advance.

The judge advised the group of their rights to present evidence, witnesses, and to testify, although not one defendant had an attorney. He explained the nature of the removal proceedings and noted that he would advise applicants if there were any U.S. law that would allow them to remain in the U.S.

The judge had to repeat himself regularly as defendants with no background in immigration law expressed that they did not understand questions.

The security officer was tasked with handing out paperwork, providing defendants with asylum applications and a document listing locally-based immigration attorneys. Asylum seekers are not provided counsel by the government in the event they cannot afford to hire a lawyer.

According to the judge, each defendant has the right to voluntary departure prior to proceedings. In eligible cases, the judge also paused to ask defendants which country they wished to be deported to should they be denied asylum and ordered removed from the United States.

The court gave each defendant the option to extend their case to find an attorney or to continue proceedings pro se. Multiple asylum seekers asked the judge for more time to find an attorney, pushing hearing dates back to early March as they continue to wait in Mexico.

Those who opted to continue representing themselves were also handed asylum applications to fill out and file with the court at hearings scheduled on March 4.

One respondent was not present in the courtroom. The judge told the clerk the case would be continued in absentia. According to the data provided by Syracuse University, a total of 21,027 total MPP cases have been dismissed in absentia after defendants did not appear at final hearings.

One man, 36, asked the judge four times whether his case could be joined with his wife's. She was scheduled for an initial appearance in March. The judge attempted to continue proceedings for the man as he was unable to locate the wife's file without a case number. He noted that the most important hearing will be the final hearing and said the cases could be joined at the man's next hearing in March.

The man pushed to have his concern addressed, prompting the judge to leave the courtroom to inquire about the case. The asylum seeker eventually realized that his wife's case number was listed on a document in a bag he left with CBP. An official accompanied the man to retrieve the document.

A man from Cuba, 26, appeared before the judge with his stepfather. The two were given asylum applications to complete before a new hearing in early March. Nearly all of the asylum seekers noted they had family members in the United

States. Prompted by the judge, the young man from Cuba said his father is a U.S. permanent resident.

During a second visit to the tent court system on Friday, a group of journalists and citizen observers were delayed entry to proceedings in Courtroom C by nearly an hour while asylum seekers' documents were scanned and faxed to the immigration judge in Port Isabel prior to the hearing.

Security guards noted that the courtroom was a "full house" this morning and that proceedings would likely run into the afternoon. Inside, nearly 30 asylum seekers sat in a row of chairs before the screen.

A judge hearing cases via closed circuit connection informed defendants that the purpose of the hearing was to continue submitting documents before scheduling a merits hearing. "Each of you will get a unique country report based on your home country," he said before explaining that the court keeps "country reports" on file to describe the conditions in defendants' home countries and that it will be available for reference.

He noted that the report is in English and that asylum seekers who wish to read it will need to have it translated.

The first case was a woman from El Salvador. The judge entered her form I-589 application for asylum and withholding of removal as an exhibit and scheduled her merits hearing for mid-February, prompting the woman to request more time. She was supposed to receive photos from someone the day before and wanted to submit them as evidence, she explained.

The woman's daughter was paroled into the country as an unaccompanied minor and is currently in Miami, according to the judge. He issued a change of venue for the child and rescheduled the case for later this month.

The rest of the hearing moved slowly as the judge addressed other cases that needed rescheduling for similar reasons. Another family, a father and son, asked for a new date as someone gathering evidence on their behalf informed the family it would take 35 days to collect and send the documents. The hearing was rescheduled for March 23.

Only one asylum seeker had an attorney. Data from Syracuse University indicated that in September of last year, less than two percent of MPP asylum cases were represented by an attorney. As the hearing wore on, it became clear that the presence of immigration attorneys would speed up proceedings significantly for those stuck living in dire conditions in Mexico. Mistakes on applications forced the judge to schedule further hearings over a month down the road.

One defendant's name was spelled incorrectly on the application. It had been prepared for the man by another person. He stated his full name for the record, clarifying for the judge that the wrong letter was used to spell his second last name. The judge appeared frustrated, but opted to correct the application with a pen with the man's permission.

A family of three – consisting of a mother, father, and a young boy – was reprimanded after the judge realized they hadn't corrected a mistake on Page 9 of a 12-page application. The document was supposed to be signed by whoever helped the family prepare the documents. "One of those errors I mentioned when I gave you instructions on Jan. 13," the judge told the family.

The security guard handed the family three new blank asylum applications to fill out if they are unable to contact the person who helped them prepare the originals. The hearing was rescheduled the hearing for March 23.

The news prompted the father to inform the judge that his son's biological

mother is a legal permanent resident in the United States. He asked whether the boy could wait out his case with his mother. He informed the father that his son is in MPP and that he doesn't have the ability to take anyone out of the program. "Unless relief is granted, and we're not there yet," he said.

A family of four, including a young son and daughter, were rescheduled because they failed to number the documents they submitted. Throughout the hearing, the father held his sleeping daughter in his arms, covered by a jacket. "That girl is clearly sick," whispered a citizen observer watching the hearing from a back row.

Clearly upset, the father told the judge through the remote translator that his family was being harassed and persecuted in Mexico. "My wife is 10 weeks pregnant," he said, explaining that in Mexico they have no insurance, no protection and no healthcare.

In response, the judge informed the family that he doesn't have jurisdiction to address their concerns and that he would contact the proper authorities at DHS to speak to before they returned to Mexico. "Are you afraid to return to Mexico?" he asked. The father answered, "Yes." The family sat down to wait for their new NTAs. The father covered the daughter with a blanket and laid her down on a chair. He appeared frustrated, wiping his eyes.

"I don't feel like they translated everything he said," said the citizen volunteer. "I'm almost certain he told the judge his wife was raped. I'm beside myself."

The judge turned the sound off, sending the court into a silent recess for 15 minutes as he sorted through papers and talked to others in his courtroom. He called the entire family back to the table, informing the mother that her A-number – an identification number assigned to detained undocumented immigrants by DHS – was incorrect.

She confirmed that someone else had filled out the application on her behalf. The judge, who did not feel he could correct something so important with a pen, asked her to review her documents and rescheduled the family for March 23.

Another man who already had several hearings with the same judge was told to complete a new version of his 33-page asylum application because the ninth page was missing. The last time he was in court, the page wasn't filled out. He told the judge he lost it, pushing the next hearing back until the end of March. "At some point, we can consider your application for relief abandoned if you don't follow instructions. The court does not want that," the judge explained.

A father, mother, and a young boy appeared before the judge expecting their attorney to be present on the judge's end. The attorney didn't show up at the last hearing and the court was not in contact with him. The judge again turned off the sound. He reappeared with the attorney on the phone and rescheduled the entire case for late February.

The family's attorney asked for a change of venue to Denver, which the judge said would have to be addressed on the next date.

A woman from Cuba asked the judge why her husband's case hadn't been called with hers, as it was supposed to be consolidated at their last hearing. After some confusion, she explained that they are in a "common union" which is legal in Cuba but is not a legal marriage in the United States.

The judge could not find notes in his case file regarding the consolidation even though the woman recalled specifics from their discussion at a previous hearing. The case was reset for the end of the month.

DHS did not respond to request for comment.

## OBITUARIES

### DEATH NOTICES

**ROGELIO C CUEVAS**, 75, died Sunday, Feb. 8, 2020 at Harlingen Medical Center. Thomae-Garza Funeral Home of San Benito is in charge of arrangements.

**CARMEN GARZA**, 85, died Sunday, Feb. 9, 2020 at her residence in Port Isabel. Thomae-Garza Funeral Home of San Benito is in charge of arrangements.

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