

January 22, 2020

ATTORNEY GENERAL RAOUL URGES SUPREME COURT TO ACKNOWLEDGE LACK OF VITAL PROTECTIONS FOR RESIDENTS IN IMMIGRATION PROCEDURES

Chicago — Attorney General Kwame Raoul today led a coalition of 20 attorneys general in filing an amicus brief urging the United States Supreme Court to acknowledge the severe shortcomings in federal procedures used to remove individuals from the country and their harmful effects on the states, and to hold that individuals who receive a negative decision in the expedited removal process are entitled to review by a court before being deported.

Raoul and the coalition [filed an amicus brief](#) in the U.S. Supreme Court supporting the respondent in Department of Homeland Security v. Thuraissigiam, who was subject to these procedures after being apprehended in the United States. In the brief, Raoul and the attorneys general argue that the process of expedited removal can result in an order of removal from the United States being issued on the spot, and offers no meaningful review for individuals who receive such orders and wish to claim incorrect legal principles or a misuse of the process. Likewise under the expedited removal process, people who announce an intention to seek asylum receive a critical interview to assess their credible fear of returning home that is stacked against them from the start.

“These immigration procedures put millions of residents in Illinois and across the country at risk of hasty or erroneous removal from the country without any meaningful chance for review,” Raoul said. “I urge the Supreme Court to acknowledge that these federal procedures are unfair, unlawful, and – above all else – un-American. I will continue to fight against any policy that threatens to harm immigrants and work to ensure that the rights of all people living in this country are protected.”

Expedited removal was historically applied only to individuals who had been present in the United States for less than 14 days and were found within 100 air miles of an international U.S. land border. However, in July 2019 the federal government issued a new rule that removed the border proximity requirement and extended the presence requirement to two years. As a result, residents of all 50 states may now be potentially subject to expedited removal without the protections afforded in normal removal proceedings, such as the right to an attorney or a hearing before a judge.

In the brief, Raoul and the coalition highlight the flaws of federal procedures to remove individuals from the country, including expedited removal and credible fear interviews:

- **Expedited removal puts residents at risk of immediate deportation without a hearing or any form of review.** The expedited removal process offers no limitations on how or where the initial stop and subsequent inquiry can occur, meaning an immigration officer can approach individuals at any time or place and begin an expedited removal inquiry. The individual must then present, to the satisfaction of a rank-and-file immigration officer, that they have continuously resided in the United States for up to two years. Without that evidence, the individual may be ordered to be removed immediately. There is virtually no possibility of claims of legal errors being reviewed by a judge in this process. This system exposes even United States citizens, legal permanent residents, individuals who have been granted asylum, and refugees to the risk of erroneous deportation.
- **Credible fear interviews do not provide sufficient safeguards against erroneous decisions.** A person in expedited removal proceedings is permitted to claim asylum, which is

supposed to lead to an interview with an asylum officer to determine the person's "credible fear" of returning to their home country. The case is then referred to an asylum officer to determine if that fear of persecution is credible. But the federal government has repeatedly revised the credible fear inquiry to make it more difficult for immigrants to fairly navigate this process. If an officer makes a negative credible fear determination, the only recourse available is a review by an immigration judge. The regulations contain no requirement that reasons be given for the immigration judge's final decision.

Raoul and the coalition argue that these flaws within expedited removal procedures harm the states in several ways. States lose valuable contributions of residents when expedited removal causes their deportation or spreads fear that forces them to live in the shadows. Additionally, remedying the harm to state residents caused by expedited removal and similar policies places a strain on state services intended to assist newcomers.

The attorneys general also note that the abrupt and erroneous deportations that could result from these procedures will inflict serious harm on families and communities. Mixed-status households with both citizens or permanent residents and undocumented residents may be torn apart with little or no time to prepare or seek legal representation. The prospect of sudden and unexpected separation can cause children to experience serious mental health problems, including depression and anxiety.

Joining Raoul in the brief are the attorneys general of California, Connecticut, Delaware, the District of Columbia, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington.