

**Congress of the United States**  
**Washington, DC 20515**

July 5, 2022

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Attorney General Garland,

Your department is unfairly terminating Trump-appointed immigration judges amid a historic border crisis and rapidly growing immigration case backlog. Your department has reportedly ousted at least a half-dozen of Trump-appointed judges<sup>1</sup> without legitimate justification for their termination.

According to Matthew O'Brien, who was appointed in 2020 as an immigration judge in Arlington, Virginia, he was recently terminated despite maintaining one of the highest case completion rates among immigration judges, receiving both positive mid-term and first-year evaluations, and having extensive immigration law experience.<sup>2</sup> He previously served as a high-level official within U.S. Immigration and Citizenship Services (USCIS) and as Assistant Chief Counsel with U.S. Immigration and Customs Enforcement (ICE).<sup>3</sup> His case is just one example.

His termination comes at a time when the Executive Office for Immigration Review (EOIR), which operates under your department, is experiencing difficulty hiring and retaining federal immigration judges.<sup>4</sup> It also comes at a time when the nation's immigration court backlog is growing faster than ever, with more than 1.5 million cases pending.<sup>5</sup> This figure is the largest in

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<sup>1</sup> Stephen Dinan, *EXCLUSIVE: 'Unprecedented' upheaval in immigration courts from Biden's bid to reshape the agency*, the Washington Times (June 20, 2022) <https://www.washingtontimes.com/news/2022/jun/20/doj-engaged-court-packing-steroids-immigration-jud/>.

<sup>2</sup> Matthew O'Brien shared this information with the Office of Congressman Andy Biggs.

<sup>3</sup> Matt O'Brien, Author at Immigrationreform.com (June 27, 2022) <https://www.immigrationreform.com/author/mattobrien/>.

<sup>4</sup> United States Department of Justice Executive Office for Immigration Review, *FY 2022 Performance Budget Congressional Budget Submission* (May 2021) <https://www.justice.gov/jmd/page/file/1398386/download>.

<sup>4</sup> TRAC Immigration, *Immigration Court Backlog Now Growing Faster Than Ever, Burying Judges in an Avalanche of Cases* (January 18, 2022) <https://trac.syr.edu/immigration/reports/675/>.

<sup>5</sup> U.S. Customs and Border Protection, *Southwest Land Border Encounters* (June 15, 2022), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

American history and is correlated with the nearly 3 million border encounters seen so far under the Biden Administration.<sup>6</sup>

Your department claims that “decisions related to career civil service employees, including immigration judges, are based solely on performance, and the administration they were hired by plays no role in decision-making.”<sup>7</sup> But it appears to us your department’s motives are nefarious.

On social media, activist attorney Hassan Ahmad highlighted his efforts to remove Mr. O’Brien from the court.<sup>8</sup> A recently added senior Department of Justice (DOJ) official from the open borders group, Ayuda, reportedly called for Mr. O’Brien’s removal.<sup>9</sup>

We are deeply concerned about your department’s pattern of abruptly terminating well-qualified immigration judges amid a historic border crisis and a rapidly growing immigration court backlog.

Please provide the following information and answers to the following questions by July 22, 2022.

1. Given the historic border crisis, rapidly growing immigration backlog, and an already limited number of sitting immigration judges, please explain why your department is terminating well-qualified immigration judges?
2. How many Trump-appointed judges have been officially terminated by your department?
3. Is your department seeking guidance from nonprofit groups or other associations regarding hiring and terminating practices for immigration judges?
4. Please provide all email correspondence between the EOIR, American Immigration Lawyers Association (AILA), and attorney Hassan Ahmad.
5. Please provide copies of all emails or other communications between DOJ officials and nonprofit groups or associations regarding Matthew O’Brien or other immigration judges.
6. Your department says decisions related to career civil service employees, including immigration judges, are based solely on performance. Please provide your department’s rationale for terminating Mr. O’Brien.

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<sup>6</sup> Adam Shaw, *Immigration judge hired during Trump era accuses Biden admin of ousting conservative appointees*, Fox News (June 25, 2022) <https://www.foxnews.com/politics/immigration-judge-trump-era-biden-conservative-appointees>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

7. Mr. O'Brien was ousted from his position during a probationary period. Please provide data on how many immigration judges are terminated during this period historically.

Thank you for your attention to this important matter and we look forward to your response.

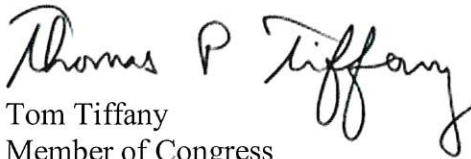
Sincerely,



Andy Biggs  
Member of Congress



Paul A. Gosar, D.D.S.  
Member of Congress



Tom Tiffany  
Member of Congress



Brian Babin, D.D.S.  
Member of Congress



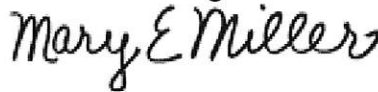
Doug Lamborn  
Member of Congress



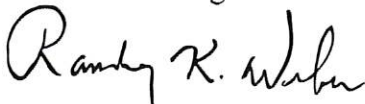
Lauren Boebert  
Member of Congress



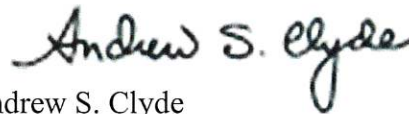
Kat Cammack  
Member of Congress



Mary E. Miller  
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Randy K. Weber  
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Andrew S. Clyde  
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Ralph Norman  
Member of Congress



Jody Hice  
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