

Act; Rural Housing Service Reform Act, which I am a cosponsor of. All of these are included here to be able to help us cut the regulatory redtape, make housing more affordable, and be able to help reduce the costs for Nebraskans and Americans across the country.

We have passed this out of our side; the House has passed their side. Right now, we are working to take the best of both of those bills to be able to get something that we will, again, both vote on and then send to the President's desk.

This is, again, how we are working in the Senate to be able to reduce the costs of living for people across the country. I am very proud to be able to work with my colleagues on the ROAD to 21st Century Housing Act. I look forward to being able to get this to the President's desk for signature.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

#### IMMIGRATION

Mr. KAIN. Mr. President, I thank you and my colleagues for being on the verge of a vote on a matter I placed before the Senate to give Senator DURBIN S.J. Res. 190. I think Senator DURBIN has already spoken, and I believe Senator PADILLA will follow me and then we will move to the vote.

But I just want to explain why I think this is such an important matter. The resolution would repeal a regulation that the Trump administration has put in place concerning the appeal of immigration cases.

So immigration cases, as we all know, that are heard in immigration courts by administrative law judges often involve very, very momentous matters for the applicant. And, traditionally, immigration cases are able to be appealed to an appellate administrative process in case a judge gets something wrong.

And the appellate process is designed in all court systems to enable the correction of error. No judge is infallible. Judges make mistakes. Sometimes judges make mistakes because the quality of the lawyering before the judge is not that good.

But whether it is a civil matter or a criminal matter or an administrative matter, a real hallmark of the American legal system—and I think it is something we can be proud of—is there is an appeal process to correct mistakes.

The regulation that President Trump's administration has put in place that I challenge in the resolution that will come up is a regulation that dramatically limits immigration appeals. So, for example, prior to the Trump regulation, somebody who got an immigration decision from an immigration court would have 30 days to appeal. The Trump administration regulation that I challenge has shrunk that amount of time to 10 days.

What is the problem with that? Oftentimes, the immigration judge signals a ruling but hasn't even done a written opinion within 10 days that an individual or lawyer could know whether there is a basis for appeal or not.

And so the reduction of the time to appeal to 10 days is certainly going to have the consequence—and I think it is an intentional thing—to dramatically limit people's ability even to appeal. The absence of a record, the absence of a written decision would severely challenge somebody's ability to appeal.

In some ways, the more serious concern I have about the regulation is it also gives the immigration judges a massive ability to summarily dismiss appeals without any hearing whatsoever. So even if you file your appeal within the 10 days, the new regulation allows the immigration court to summarily dismiss those appeals 10 days later unless a majority of the appellate body wants to hear the case. And so there is almost a default that the appeals will be summarily dismissed.

And, again, if you look at the time deadline: 10 days to file the appeal and then you can summarily dismiss within 10 days. A total of 20 days. Again, you may not even have a transcribed court record from the immigration hearing or a written opinion from the immigration judge by the end of that 20-day period.

And so this is an effort to essentially make the appeals process meaningless by imposing such tight time deadlines on the filing of appeal and encouraging the dismissal of appeals on a summary basis as to render the appeals process completely unworkable.

All right. What does that mean? Let's talk about what this means to immigrants in immigration courts. And I want to use two kinds of cases that are really common in the everyday work of our immigration courts.

The first is asylum cases. The United States has had a practice—and other nations have it as well. And, again, it is a practice that I think we should feel proud of—that we will offer asylum to individuals who are able to prove that they have a well-justified fear of persecution if they return to their country of origin.

And this has been used to protect people from torture, protect people from imprisonment, protect people from death, protect people from all kinds of grievous harms in their countries of origin because they are a political opponent, because they are a member of a religious minority or an ethnic minority, because they have been subjected to domestic violence, because they have been pressed into service in the military as a child soldier in countries that force people into the military at a young age.

And the United States, along with nations around the world, has always allowed someone to come in and make this case: I will be subject to persecution—even to torture and death—if you

send me home. And the United States has allowed people to make that case. And my belief is that is a good thing, not a bad thing.

Maybe the standard should be a tough standard; but if you meet that standard, you should be allowed to remain here rather than be sent back to suffer horrible consequences in the country where you come from.

Let me give you a couple of examples of this that are sort of topical and recent examples. President Trump authorized military action in Nigeria on Christmas Day to bomb certain areas and target certain groups that were persecuting Christians.

Christians being persecuted in this part of Nigeria led the President to say: This justifies use of the United States military to try to eliminate the threat whereby people practicing their Christian faith will be targeted for torture and even death.

So the President has acknowledged that this is a serious concern. And so what if somebody from Nigeria seeks asylum status in the United States and says: I am a Christian; I am being targeted because of my religion; President Trump believes this is such a serious thing that he authorized United States military action to target terrorist groups in Nigeria to protect Christians; I would like asylum status in the United States based on President Trump's recognition that I am subject to religious persecution?

If you force essentially the evisceration of an appeals process, you run the risk that individuals who are subject to persecution of this kind would be returned home and thereby face the very persecution that President Trump has spoken out against.

Here is another one: Iran. Iran's regime is one of the grossest violators of human rights on the planet to political opponents, to religious minorities.

There are Iranians in the United States right now who have active asylum cases and are attempting to demonstrate: Please don't send me back there. The work that I have done in Iran against the regime will immediately get me imprisoned or worse, should I be sent home.

And so if you are going to have a protection for asylees, if you are going to say: We don't want to send people back to a place where they are going to be tortured or killed for an illegitimate reason—you shouldn't turn the immigration appeals process into essentially a worthless process that does not provide protection for people who have a high risk of suffering if we make a mistake in an immigration case.

So that is one kind of case, and it is an asylum case. It is a standard, everyday case in our immigration courts. And I think there is a pretty strong motive that we not make mistakes in these cases but we get them right. And an appeals process that is substantive and significant increases the chance that we will make the right decision, and eliminating the appeals process or

dramatically reducing it increases the chance that we will make a mistake.

The second kind of case that is also just the everyday case: whether somebody, because of their immigration status, will be deported. Those cases are happening as we are speaking right now in immigration courts all over the country. Now, the cases tend to turn on a legal question about somebody's immigration status and whether they are subject to deportation because of their status.

At the base of this case there is a legal issue, but in most of these cases the real issue is family separation: Will we separate children who were born in the United States from parents who came here in an undocumented status?

Almost all of these cases about deportation involve families, and almost all of them involve families that have mixed status. Some might be U.S. citizens. Some might be green card holders who are seeking to be citizens. Some might have humanitarian parole. Some might be special immigrant visa status. And some are undocumented.

And so while a case at an immigration court might seem like it is about a code provision, the human issue in the case is whether we maintain a family together or whether we force a family to separate, and there is not a more significant issue ever litigated in any court in this country than that.

My wife Anne—and I talk about her probably too much on the Senate floor because I am so proud of her, but one of the chapters of her professional life was she was a juvenile court judge in the Richmond Juvenile and Domestic Relations Court for 9 years, and for the last 3 years she was the chief judge of the court.

Now, the work—I know the Presiding Officer knows this—of a juvenile court judge is really tough because you are dealing with the worst things that people do to each other. You are dealing with child abuse cases. You are dealing with kids who are the victims of horrible crimes and, sadly, kids who commit horrible crimes. The number of times my wife had to preside over murder cases—again, somebody murdered or a young person who commits a murder—grim, grim stories, and she would come home in a bad mood because of that case.

But the worst cases my wife ever had to preside over were not the murder cases. They were not the child abuse cases. My wife said the hardest cases for a juvenile and domestic relations court are cases involving the termination of parental rights. A parent has had a child. That parent might have been sentenced to prison. The parent might have an addiction issue. The parent might have had neglect issues or might have had serial abuse. Maybe the parent did a whole lot of bad things to this child. And now there is a legal proceeding before the juvenile and domestic relations court: Will the parent's right be terminated forever? I mean, it is a forever decision. It is a decision about family separation.

And my wife would come home from those cases and say: These cases are tougher than the murder cases. They are tougher than the child abuse cases. When you are sitting as a judge and you are looking across the dais at somebody and the question that you have to decide is, Will I terminate this mother, terminate this father's right to be the parent of this child forever, those were the toughest cases—the toughest cases.

That is what these immigration cases are. They are cases about a provision of the Immigration Code, but the consequence is family separation. In the instance of a deportation, it might be family separation forever.

My wife would say, though: I hate these cases, but thank God there is an appeal.

In the Virginia system, a decision about a termination of parental rights could be appealed up to the circuit court.

And she used to say: I am a smart judge. I listen real carefully. I try to decide right. But I am not an infallible one. I might make a mistake. And the fact that there is an appeal that is essentially an appeal of right—that the individual can immediately file an appeal—and that appeal has to be heard in the circuit court, that gave her a little bit of comfort that, if I make a mistake, there can be somebody who can correct the mistake and not terminate somebody's rights to be a parent for the rest of their life over their own child.

That is what these immigration cases are. In fact, I think even a higher percentage than dealing with asylum status are cases about deportation of people over their legal status. And in almost every one of those cases, it is really a case, at root, about family separation.

And it just strikes me that when the stakes are that high—and if we acknowledge our own fallibility as legislators and as judges—having an appeals process that is meaningful isn't a bad thing. It is not something we should try to eliminate; it is something we should actually celebrate and say it is a hallmark of our system.

And so, for that reason, following my colleague Senator PADILLA, who I know is going to come and speak on this matter, I will call up, at the appropriate time, this resolution and ask my colleagues to stand for the broader proposition that our justice system in this country is not perfect, and it is never going to be, but because it is not perfect and because we are not perfect, we have an appellate process that provides some kind of a check against mistakes, and that is something to celebrate, not to eliminate. And that is the purpose for the bill that I will bring before the body following Senator PADILLA's comments.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

## IMMIGRATION

Mr. DURBIN. Mr. President, I am honored to rise in concert with my friend and colleague from Virginia Senator KAINE for this measure that is going to be pending on the floor.

I rise in support of S.J. Res. 190 to disapprove of an interim final rule entitled "Appellate Procedures for the Board of Immigration Appeals," a regulation from the Justice Department that would greatly limit opportunities for appeal in immigration courts.

This rule would reduce the time to file an appeal from 30 days to just 10 days, and if an applicant manages to meet this unreasonable deadline, the appeal is still likely to be thrown out under this regulation. That is because the regulation requires that appeals be summarily dismissed unless a majority of the Board of Immigration Appeals agrees to take on the case.

This new regulation is just the latest in a series of actions by the Trump administration to end judicial independence in our immigration court system.

Last year, the Trump administration fired hundreds of immigration judges. There is a huge, multithousand backlog that needs to be decided by our immigration courts. The response by the Trump administration: eliminate immigration judges.

Make sense? Of course not.

One of those who was eliminated was Assistant Chief Immigration Judge Jennifer Peyton. She worked for nearly 10 years at the Chicago Immigration Court, through Democratic and Republican administrations.

What was the cause for the dismissal of this woman who had spent almost 10 years before the court? I can tell you because I witnessed it personally. Do you know what she did? Do you know what she had the nerve to do?

When I called the immigration court and said: Can I sit in the audience and listen to an immigration hearing, she said: I will meet you at the front door and escort you to the courtroom. She met me, introduced herself, took me to the courtroom, and left. I didn't see her again that day.

That was grounds for dismissal by the Trump administration. The fact that she would communicate with a Member of Congress, actually shake hands with a Member of Congress, actually escort a Member of Congress into her courtroom into what was supposed to be a public setting: grounds for dismissal. Gone. The end of a career.

Why would the Trump administration want to fire an experienced, non-political judge like Judge Peyton? Well, I explained it to you. She was dismissed and fired without any stated cause whatsoever.

The administration has taken the same approach with the Board of Immigration Appeals, firing 13 judges appointed during the Biden administration and decreasing the number of Board judges from 28 to 15.

These firings paved the way for the administration to hire what they are