

America

Bid to review bad decisions

Advocates new push to bring back deportees

MIAMI, May 29, (AP) — Jesus Lopez says he feels like a stranger in the place he was born.

He's from Guadalajara, Mexico, but his life was in Chicago. After 15 years in the city, he was deported a year ago during the COVID-19 pandemic.

"I want to go back because I belong there, that's where I have my friends, my family," said the 25-year-old, once a recipient of the Deferred Action for Childhood Arrivals program that gives protections to immigrants brought to the US as children.

Lopez, who said he didn't renew his spot in the program because he couldn't afford it, hopes to benefit from new efforts by advocates, groups and attorneys to bring back immigrants they believe were unfairly deported from the United States.

With President Joe Biden in office, one of the new proposals from advocates urges creating a centralized Department of Homeland Security office to consider requests from deported immigrants trying to reunite with their families in the US.

"We have deported hundreds of thousands of individuals, and to do that and not even have an effective safety valve to review bad decisions violates due process," said **Nayna Gupta**, associate director of policy for the National Immigrant Justice Center, the Washington-based nonprofit that proposed the idea.

It's a long shot: White House officials have never publicly mentioned the idea, and it doesn't yet have a supporter in Congress. The campaign, however, shows how immigrant advocacy has become emboldened after four years of hardline immigration policies under former President Donald Trump.

It also shows how varied ambitions are among pro-immigrant advocates.

Many are focused instead on immigration bills that have passed the House but appear stalled in the Senate as large numbers of unaccompanied children crossing the border have weakened the White House's position. The measures would give legal status to DACA recipients like Lopez, more farmworkers and others with special protections.

Proposed

Another bill Biden proposed to offer a path to citizenship for immigrants in the country illegally includes some provisions for a chance for deportees to come back to the US. But the Biden administration has not spoken publicly or answered questions about the possibility of regularly considering those requests.

More than 700,000 immigrants have been deported from the US in the last three fiscal years, according to federal data. US law includes ways for deportees to return, but they rarely succeed.

For some deportees, the change of administration offers hope.

Claudio Rojas says he feels better since Trump left office, but he still lives with anxiety and can't sleep some nights in his Buenos Aires home.

"I am not in a detention center, but I feel like I am in jail in my own apartment. I am in Argentina, but I feel I am a foreigner. I can't adapt," said Rojas, a 55-year-old handyman deported in 2019. His wife, two sons and two grandsons are in Florida.

Rojas and his family overstayed a tourist visa. After a decade, he ended up in federal custody after a police stop and got a deportation order. Rojas did not leave, and Immigration and Customs Enforcement detained him again for seven months. He held a widely publicized hunger strike, and two filmmakers made a documentary based on his and others' experiences.

Days before Rojas was to speak at the 2019 Miami Film Festival, he was detained again and deported. The Argentinian has sued and is waiting for a decision from a federal appeals court.

"I want back the life I lost, all this time that I lost," Rojas said.

The National Immigrant Justice Center says Congress doesn't need to act on their proposal and that creation of a centralized process to review applications could be done through executive action because it is based on existing laws.

The plan asks the government to take into account factors like people who were eligible for legal status and had applied before being deported or those who have compelling circumstances.



Gupta



Traffic moves over the George Washington Bridge as seen from Fort Lee, New Jersey. While President Joe Biden pitches his infrastructure plan to the American public, the real work of delivering his legislative agenda takes place behind the scenes. Biden's 15-person legislative team is charged with maneuvering and mapping out the process of actually getting his agenda passed on Capitol Hill. (AP)

America

'Loyalty to Trump'

GOP blocks Capitol riot probe

WASHINGTON, May 29, (AP) — Senate Republicans blocked creation of a bipartisan panel to investigate the deadly Jan 6 attack on the Capitol, displaying continuing party loyalty to former president Donald Trump and firm determination to shift the political focus away from the violent insurrection by his GOP supporters.

The Senate vote on Friday was 54-35 — six short of the 60 needed — to take up a House-passed bill that would have formed an independent 10-member commission evenly split between the two parties. It came a day after emotional appeals for the commission from police who fought the mob, the family of an officer who died and lawmakers in both parties who fled Capitol chambers in the worst attack on the building in two centuries.

The Republicans were mostly but not totally united: Six voted with Democrats to move forward. Eleven senators — nine Republicans and two Democrats — missed the vote, an unusually high

number of absentees for one of the highest-profile votes of the year. At least one of the missing Republicans would have voted in favor of considering the commission, according to his office.

The GOP opposition means that questions about who should bear responsibility for the attack could continue to be filtered through a partisan lens — in congressional committees — rather than addressed by an outside, independent panel modeled after the commission that investigated the Sept 11, 2001, terror attacks.

Declared

"The investigations will happen with or without Republicans," declared Louisiana Sen Bill Cassidy, one of the Republicans who voted to move forward. "To ensure the investigations are fair, impartial and focused on the facts, Republicans need to be involved."

The vote was in part a GOP attempt to placate Trump, or avoid his reprisals, as he has kept a firm hold on the party

since his defeat by Democrat Joe Biden. The former president told his supporters to "fight like hell" to overturn his defeat before the siege and continues to falsely say he won the election — claims shouted by his supporters as they stormed the building. Trump called the commission legislation a "Democrat trap."

Friday's vote — the first successful use of a Senate filibuster in the Biden presidency — was emblematic of the profound mistrust between the two parties since the siege, especially among Republicans, with some in the party downplaying the violence and defending the rioters.

The vote also is likely to galvanize Democratic pressure to do away with the filibuster, a time-honored procedure typically used to kill major legislation. It requires 60 votes to move ahead, rather than a simple majority in the 100-member Senate. With the Senate evenly split 50-50, Democrats needed support from 10 Republicans to move to the commission bill.



Virginia State Police K-9 officer Tyler Fridley, poses with his dog Aries at State Police headquarters in Richmond, Va on May 10, 2021. Drug-sniffing police dogs from around Virginia are being forced into early retirement as the state prepares to legalize adult recreational use of marijuana on July 1. (AP)

News in Brief

Employee kills 8 at yard: An employee opened fire Wednesday at a California rail yard, killing eight people before taking his own life as law enforcement rushed in, authorities said, marking the latest attack in a year that has seen a sharp increase in mass killings as the nation emerges from coronavirus restrictions.

The shooting took place around 6:30 am in two buildings that are part of a light rail facility for the Valley Transportation Authority, which provides bus, light rail and other transit services throughout Santa Clara County, the most populated county in the San Francisco Bay Area. The facility in San Jose includes a transit-control center,

parking for trains and a maintenance yard.

A man wounded in the attack was in critical condition at Santa Clara Valley Medical Center, spokesperson Joy Alexiou said.

The attacker was identified as 57-year-old **Sam Cassidy**, according to two law enforcement officials. Investigators offered no immediate word on a possible motive. (AP)

Frenchman killed after stabbing: A man with severe schizophrenia who had



Cassidy



Darmanin

been on a watch list for Islamic radicalism stabbed a police officer at her station Friday in western France and shot two other officers before police killed him, authorities said.

The slain suspect was a Frenchman in his 40s who had been on a watch list for Islamic radicalism because of his "rigorous" religious practices, Interior Minister **Gerald Darmanin** said. The assailant had recently been released from prison and was under monitoring by psychiatric services, he said. (AP)

Legal comments on the recent Statement of the Ministry of Interior with regards to deportation

Al-Khateeb: Deportation of Expats without judicial supervision is unfair and contradicts the Constitution



Dr. Fawaz Al-Khateeb

Lawyer Dr. Fawaz Al-Khateeb states that the recent statement by the Ministry of Interior regarding the deportation of expatriates for participating in support of sit-ins for Jerusalem and Palestine issues currently prevailing; this statement assures that the authority of deportation should be under judicial supervision rather than the authority of any individual. "Based on my experience in the field of law, I have seen many worrying deportation cases such as the deportation of an expat for a mere tweet where the court declined to pronounce a judgment of neither a prison sentence nor deportation. The expat was imprisoned for one month in the deportation jail and was then deported on an administrative basis; this is one of thousands of unfair cases."

Dr. Al-Khateeb pointed to the statistics issued by the press in Kuwait 2013-2019 stated that 148,000 expatriates of various nationalities were deported by the Ministry of Interior even though some of them wanted to travel at their own free will. He clarified that "deportation" is to expel an expat out of the country, and it cannot be applied to citizens in accordance with Article 28 of the Kuwaiti Constitution.

Dr. Al-Khateeb further clarified that deportation may be judicial or administrative, noting that the latter is so dangerous as the legislators granted the authority of deportation to the Ministry of Interior with no clear controls or judicial supervisions, nor minimal guarantees for the deported individuals.

Dr. Al-Khateeb also pointed out that judicial deportation is necessary and important, and that it is likely to be an auxiliary and complementary punishment in accordance with Articles 66 and 79 of the Kuwaiti Penal Code, "and that the Judge is free to decide the deportation after penalty execution, in general, which is a must in cases of felony or if the punishment is restrictive of freedom for a crime that violates honor or trust."

Dr. Al-Khateeb went on to state that judicial deportation could be based on a judgment on a person's conviction with a specific penalty, such as the permissibility of the court rule on the prisoner who is serving the sentence in accordance with Decree-Law No. 48/1987 in respect of combating psychotropic substances - Article 39 bis, as well as in accordance with Law No. 74/1983 in the matter of battling drugs, regulating their use and trafficking - Article 33 bis, where the court may order the suspension of the execution of the adjudicated punishment if it is proven that he has given up the addiction; while deporting the expat convict from Kuwait. He explained that the judicial deportation has the purpose of protecting society from criminals who pose a danger to the state in accordance with the two-level powers of the court and the supervision of the court of law (Supreme Court), after the accused submits his full defense; "which is totally absent in administrative deportation."

Dr. Al-Khateeb explained that administrative deportation itself indicates that it is issued by the Ministry of Interior and is subject to the absolute discretion of the authority without supervision or examination, and it is applied in the State of Kuwait in accordance with Decree-Law No. 20/1981 in Article 1 Paragraph 5, indicating that matters of residence and deportation for non-Kuwaitis are not subject to judicial supervision. Consequently, the Administrative Department has no jurisdiction over disputes relating to the deportation of non-Kuwaitis. "It is an individual decision by the administrative authority for public reasons such as (public interest, public security, or public morals) or if the expat has no apparent means of living in accordance with Article 17 of the Expat Residence Law No. 17 of 1959; the deportation decision may include the expat dependents too." Dr. Al-Khateeb added that the explanatory memorandum gave examples and an explanatory note of cases in which the expat is subject to deportation, with regards to the public interest where the expat violates the social or economic order of the state, and on the reason for deportation related to public security if the expat has become accustomed to committing crimes that he lacks fear. "With regard to public morals, the memorandum of the law indicated that

if the behavior of the expat contradicts the usual standards for the behavior of the common man, it is strange that the law attributed the assessment of these inflexible reasons for deporting the expat to the Ministry of Interior in absolute terms, as it is the authority that assesses whether the expat has committed a dangerous act he should be deported, and these reasons for their general and seriousness should be subject to judicial examination and not be left to the opinion of individual decision-makers."

Dr. Al-Khateeb also indicated that my call of amending the legislation is based on two justifications, the first is constitutional, the second is based on human rights principles. Al-Khateeb points out to five reasons for amending the legislation constitutionally: "The first of which is that it affects the right of jurisdiction, which is supposed to be guaranteed to all people regardless of nationality, according to Article 166 of the Kuwaiti Constitution. Secondly, that it deprives the Administrative Court of its comprehensive constitutional authority in the consideration of administrative decisions which is contrary to Article 169 of the constitution, and thirdly that administrative deportation contravenes the constitutional and legal principles of justice and equality that are among the basic components of Kuwaiti society, and fourthly that the deportation decision, even if it is an administrative decision and not a punishment that requires prosecution, as some of law novices point out with false claims that administrative deportation is not a punishment and therefore it does not require a trial. This can be answered by stating that it is an administrative decision, therefore the person should have the right to a grievance against it in accordance with the constitution. Fifthly, the exclusion of judicial supervision from the deportation decision issued by the Ministry of Interior is one of the forms of infringement of the principle of separation of authorities and a violation on the judicial authority. "We all trust our fair honorable judiciary, which is the basis of ruling and the guarantee of rights and freedoms."

Dr. Al-Khateeb added that the judicial part has four reasons as to why the deportation decision should be subject to judicial review. The first reason is that it violates Article (13) of the Multilateral International Covenant on Civil and Political Rights adopted by the United Nations General Assembly in Resolution 2200 of 12/16/1966, and specifically violates the general principle regarding the deportation of expats, which stipulates enabling a person to defend and present reasons against deportation from the competent authority and from delegating someone to represent him before it. The second reason is that jurisprudence and comparative judiciary has clearly and explicitly decided the jurisdiction of

the administrative judiciary to supervise decisions to deport expatriates and considering the decisions issued regarding them among the administrative decisions that fall within the jurisdiction of the administrative judiciary. He indicated that some refer to deportation of expats without supervision exists in other countries such as the United States of America and the United Kingdom which is a false allegation, whereby in such cases the person referred to deportation can resort to the court to stop the administrative deportation order in accordance with the legal mechanisms available under the jurisdiction of the Immigration Court." "The third reason is related to the injustice that may occur on the expatriates. Any administrative decision that cannot be appealed against according to the United Nations report will inflict unjust and unfair treatment and it create a state of anxiety. A report has already been issued by the United Nations on Kuwait regarding administrative deportation according to a summary prepared by the United Nations Commission. The United Nations High Commissioner for Human Rights, pursuant to its mandate entrusted to it under Paragraph 15 (c) of the annex to Human Rights Council Resolution 5/1, and Paragraph 5 of the annex to Council Resolution 16/21, where it was stated that they raise concerns of injustice in Item (C) Of the report under the title Implementation of International Human Rights Obligations in Paragraph (35) on issues of deportation in Kuwait. "The fourth reason is that Kuwait's human rights reputation is important, and reports of international and domestic human rights organizations in this regard, including, for example, the statement of the Kuwait Human Rights Basics Association, which states that deportation is unfair," he said.

Dr. Al-Khateeb concluded by stressing that the Executive Authority must deviate from the policies of third world countries and that it should think in terms of principles of mercy, humanity and human dignity, recalling choosing His Highness the late Amir as the Emir of humanity in 2014 and choosing of the State of Kuwait as a center for humanitarian work which "imposes on us all a greater commitment in order to improve the law and labor environment." calling for the amendment of the residency law to give expats the right to resort to the judiciary in case administrative deportation decision is taken, and allowing them to present their defense before the judiciary, in addition to the abolition of the fifth paragraph of Establishing the Administrative Court to consider administrative disputes that shall exclude Judicial supervision over issues of deportation, residency, and nationality, with any case of exception being lifted from the judiciary's consideration of administrative matters.