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Court Partially Blocks Rules Limiting Work Permits for Asylum Seekers *Court enjoins rules limiting access to work permits for CASA, ASAP members*

Greenbelt, MD – Late Friday night, Judge Paula Xinis of the District Court of Maryland issued a preliminary injunction in *CASA de Maryland v. Wolf*, enjoining provisions of two new immigration rules that would limit asylum seekers’ ability to obtain work authorization. While this relief is limited to members of CASA and the Asylum Seeker Advocacy Project (ASAP), it will help hundreds, if not thousands, of asylum seekers who will be able to apply for work authorization before Judge Xinis decides the outcome of this lawsuit.

The Court concluded that Plaintiffs are likely to succeed on the merits in this case for many reasons, including because the government “never wrestled with the fundamental implications of deferring or denying advance work authorization” to asylum applicants, and because Defendant Chad Wolf likely lacked the authority to issue the rules in the first place, as he was not lawfully serving as Acting Secretary of the Department of Homeland Security (DHS).

The Court also recognized that the new rules are causing irreparable harm to asylum seekers. The decision finds that the new rules will make it difficult for asylum seekers to afford basic necessities or hire legal counsel to aid them in pursuing asylum.

“I have been waiting anxiously to find out whether I would be able to apply for work authorization, and I am so relieved the answer for me is yes - soon I will have a work permit,” said **W.L., an ASAP member**. “Having a work permit will change my life and the lives of my children. But I believe everyone seeking asylum should have these same opportunities. They also need to work legally, and they should be able to.”

“We are proud to stand with our members, who have stood up to this administration and won,” said **Swapna Reddy, Co-Executive Director of the Asylum Seeker Advocacy Project (ASAP)**. “But the fight is far from over. I have no doubt that our members will keep fighting until every asylum seeker has the ability to work and live in safety in the United States.”

“This important ruling is yet another repudiation of the Trump administration’s attacks on immigrant communities, including vulnerable asylum seekers. Not only has the Court recognized the tremendous harm of these new barriers to work authorization on asylum seekers, but it found that Chad Wolf is likely serving illegally as the head of DHS, a role he has used to attack immigrant families and communities across the United States. We will continue to fight to protect our members and build the power of working class communities of color, so that everyone is treated with the respect and dignity they deserve,” said **Gustavo Torres, Executive Director of CASA**.

Members of CASA and ASAP will no longer be subject to the following provisions of these new rules:

- **The new 365-day waiting period** for asylum applicants to file work authorization applications. Instead, members of ASAP and CASA members will be able to request work authorization 150 days after filing for asylum.
- **The one-year filing rule**, which makes asylum applicants ineligible for work authorization if they filed their asylum application more than a year after arriving in the United States (unless an immigration judge finds they qualify). ASAP and CASA members will be eligible for work authorization regardless of whether they filed for asylum after more than a year of arriving in the United States.
- **The repeal of 30-day processing** of work authorization applications. ASAP and CASA members will have work authorization applications adjudicated within 30 days.
- **The “deemed complete” provision**, which previously meant that if an asylum application was pending with U.S. Citizenship and Immigration Services (USCIS) for more than 30 days without agency action, it would be deemed complete. ASAP and CASA members whose applications have been pending with USCIS for more than 30 days will be deemed complete, ensuring that they can request employment authorization 150 days after submitting their asylum application.
- **A provision stating that work authorization for asylum applicants is discretionary**. ASAP and CASA members who are eligible for work authorization must receive that authorization.

- **A new biometric information requirement** (including fingerprints), which imposes a biometrics requirement and an \$85 fee on asylum applicants applying for work authorization in addition to the biometrics requirement for filing an asylum application. ASAP and CASA members will not be required to submit additional biometric information if they have already done so for their asylum application, nor will they be required to pay \$85 for fulfilling the new biometrics requirement.

"We are pleased that the court has issued this interim relief, recognizing that these rules are likely unlawful and already harming asylum seekers," **said Mariko Hirose, Litigation Director for the International Refugee Assistance Project (IRAP)**. "Nevertheless, we are disappointed that the Court disagreed with some of our arguments and issued a remedy short of fully postponing the rules, which is a remedy specifically provided by the law. We will continue fighting to obtain broader relief that will protect all asylum seekers as soon as possible."

Unfortunately, the Court's decision will only apply to members of CASA and ASAP. As such, asylum applicants who are not members of CASA and ASAP will still be subject to all provisions of the new rules. This means that they:

- Must wait almost 7 months longer to submit their initial work permit application than if they had filed their work authorization application before August 25, 2020.
- Are ineligible for work authorization if they filed their asylum application after August 25 and had been here for more than a year before filing, unless an immigration judge finds they qualify.
- Have no guarantee as to how long it will take the government to process their work authorization application unless it was filed before August 21.

"We are very encouraged that the Court recognizes that these cruel and counterproductive rules were illegally issued with complete disregard for the devastating impact they are having on asylum seekers," **said Oasis Legal Services Legal Program Director, Rachel Kafele**. "Nevertheless, we are disappointed that our clients, and vulnerable LGBTQ+ asylum seekers around the country, are left with no protection and must continue to live in poverty compounded by the crippling effects of the pandemic, natural disasters, and ongoing economic devastation.

"Centro Legal de la Raza celebrates the decision issued by District Court Judge Paula Xinis correctly recognizing the destructive impact of DHS's new rules, which seek to dramatically limit asylum seekers' ability to obtain authorization to work while their cases are pending, **said Julie Hiatt, Immigrants' Rights Managing Attorney for Centro Legal de la Raza**. "We are gratified that Judge Xinis held DHS accountable for its failure to

follow the law in enacting these devastating restrictions, and, notably, that she found that Acting Secretary of DHS Chad Wolf appears to have been acting without authority in issuing these new rules. We will continue to fight to protect our ability to further our mission to advance the rights of our low-income immigrant clients, and we will continue to fight to ensure that all asylum seekers are afforded fair opportunities to work in the United States.”

“The pandemic and the fires that blaze throughout the Bay Area and the West Coast disproportionately impact asylum seekers, their families, and their ability to work,” said **Jehan Laner, Co-Director and Immigration Attorney at Pangea Legal Services**. “While it is encouraging that the Court recognized the unlawfulness of these rules, this decision does not extend to our clients, nor protect them from the irreparable harm that makes the difference between life and death. We will keep fighting to ensure that these politically motivated regulations are overturned and that asylum seekers have the ability to earn a livelihood.”

"We are pleased the Court recognized that DHS repeatedly 'sidestep[ped]' law requiring an agency to consider evidence and provide rational reasons for its rules," said **Richard Mark of Gibson, Dunn**. "It is heartening that the Court recognized that Chad Wolf's appointment as Acting DHS Secretary was likely invalid so that he was 'without authority' to issue these rules." **Joe Evall, also of Gibson, Dunn, added**, "The Court issuing this extraordinary relief is a testament to just how serious and impactful these violations of the law have been for asylum applicants. Although the Court's order does not protect everyone affected by these rules, we are glad that it will provide meaningful relief for many asylum applicants who will be able to work legally as a result."

The immigrant rights organizations that brought the case are CASA, the Asylum Seeker Advocacy Project (ASAP), Centro Legal de la Raza, Oasis Legal Services, and Pangea Legal Services. The case was filed by the International Refugee Assistance Project (IRAP), ASAP, and the law firm Gibson Dunn & Crutcher, LLP. The lawsuit challenges the legality of these new rules, including the legal authority of Acting Secretary of Homeland Security Chad Wolf to have issued them.

The Court’s opinion on the preliminary injunction is [here](#).

For more information on how to join ASAP, visit our website [here](#). For more information on how to join CASA, visit their website [here](#).

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