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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | [customerservice@law360.com](mailto:customerservice@law360.com)

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# Calif. Judge Vacates Trump Admin's 'Remain In Mexico' Policy

By Tom Lotshaw

Law360 (October 8, 2026, 3:25 PM EDT) -- A California federal judge vacated a Remain in Mexico policy the first Trump administration created, declaring it unlawfully obstructed rights to seek asylum, access legal counsel and receive fair proceedings, while noncitizens were required to endure dangerous conditions in northern Mexico.

In an **order** issued Wednesday, U.S. District Judge Jesus G. Bernal granted judgment to organizations and several certified classes of individual plaintiffs that challenged the policy, and declared its implementation was arbitrary, capricious and contrary to law under the Administrative Procedure Act.

The judge also held that the policy violated Fifth Amendment due process rights and the First Amendment rights of organizations such as the Immigrant Defenders Law Center to "advise, assist, consult with and represent" people.

According to the judge, only about 7% of asylum seekers subjected to the policy had legal representation, while about 80% of asylum seekers in immigration court did, and only 732 of the nearly 68,000 people who were subjected to the policy were granted some relief or removal protection.

"Similarly situated non-MPP 1.0 enrollees from Central America were granted relief at a rate more than 26 times greater than the 1.1% grant rate for MPP enrollees," Judge Bernal said, referring to the policy, which was also known as the Migrant Protection Protocols, or MPP.

The policy was rolled out in 2019 and rolled back during the Biden administration, with both actions spurring separate litigation. Under the policy, the Trump administration required thousands of asylum seekers from certain countries to remain in Mexico while their proceedings played out in U.S. immigration courts.

People enrolled in the policy clearly faced dangers from crime and violence and often lacked adequate and stable shelter in Mexico, as well as telephone, internet and mail access, according to the judge.

"Human rights organizations documented more than 1,000 instances of violence towards MPP 1.0 enrollees, including murder, torture, rape, kidnapping and other violent assaults," Judge Bernal said in his 40-page decision.

People subjected to the policy also had significant trouble accessing counsel for their immigration proceedings due to the national border between them and U.S.-based attorneys, the difficulty of making and receiving international phone calls and the challenges attorneys and organizations faced in travel to Mexico, according to the judge.

The government allowed people subjected to the policy to enter the U.S. only on the days they had court hearings, the judge said, and placed limits on attorneys' ability to meet with clients on those days and on their ability to meet with any others subjected to the policy and unrepresented in proceedings.

"Represented MPP 1.0 enrollees were allowed at most a single hour before court appearances to meet and consult with their counsel," Judge Bernal said. "In practice, some MPP 1.0 enrollees could meet

with their counsel for only 20 to 45 minutes before their hearings."

The judge rejected the Trump administration's bid for summary judgment in the long-running litigation over the policy, as well as its argument that the court could not vacate the policy under the Administrative Procedure Act.

The judge noted that neither party had moved for summary judgment on a pending claim related to the allegedly unlawful cessation of a wind-down of the Remain in Mexico policy, and directed the parties to propose a trial plan for that claim within 21 days.

Earlier this year, Judge Bernal **blocked** a Trump administration attempt to reimplement the Remain in Mexico policy, granting a nationwide stay that the Ninth Circuit **later narrowed** to clients of the Immigrant Defenders Law Center.

In July, a Texas federal judge ruled in favor of Texas and Missouri and their legal challenge of the Biden administration's termination of the policy, and **barred the government** from applying the termination memorandums issued by the Biden administration to anyone.

The U.S. Department of Homeland Security and the U.S. Department of Justice did not immediately respond to a request for comment Thursday.

Alvaro Huerta, director of litigation and advocacy for the Immigrant Defenders Law Center, applauded the ruling.

"We welcome the court's finding that the Trump administration's 'Remain in Mexico' policy violated both our clients' right to a fair process and the First Amendment rights that protect attorneys' work on their behalf. We must never accept a system that demands people prove their need for protection while simultaneously undermining their ability to do so," Huerta said in a statement to Law360 Thursday.

"For our clients, the denial of legal counsel carried potentially fatal consequences, and no administration should ever be permitted to put people's lives in danger," Huerta added.

The plaintiffs are represented by Matthew T. Heartney, Daniel S. Shimell and Allyson C. Myers of Arnold & Porter Kaye Scholer LLP, Efrén C. Olivares of the Southern Poverty Law Center, Rosa Saavedra Vanacore, Stephen W. Manning, Jordan E. Cunnings and Kelsey Provo of the Innovation Law Lab, Tess Hellgren, Stephanie M. Alvarez-Jones and Victoria Neilson of the National Immigration Project of the National Lawyers Guild, and Melissa Crow of the Center for Gender and Refugee Studies.

The government is represented by Christina A. Marquez and Soo-Young Shin of the U.S. Attorney's Office for the Central District of California, and Cara Alsterberg and Alanna Duong of the U.S. Department of Justice's Civil Division.

The case is Immigrant Defenders Law Center et al. v. Chad Wolf et al., case number 2:20-cv-09893, in the U.S. District Court for the Central District of California.

--Additional reporting by Britain Eakin and Dorothy Atkins. Editing by Robert Rudinger.