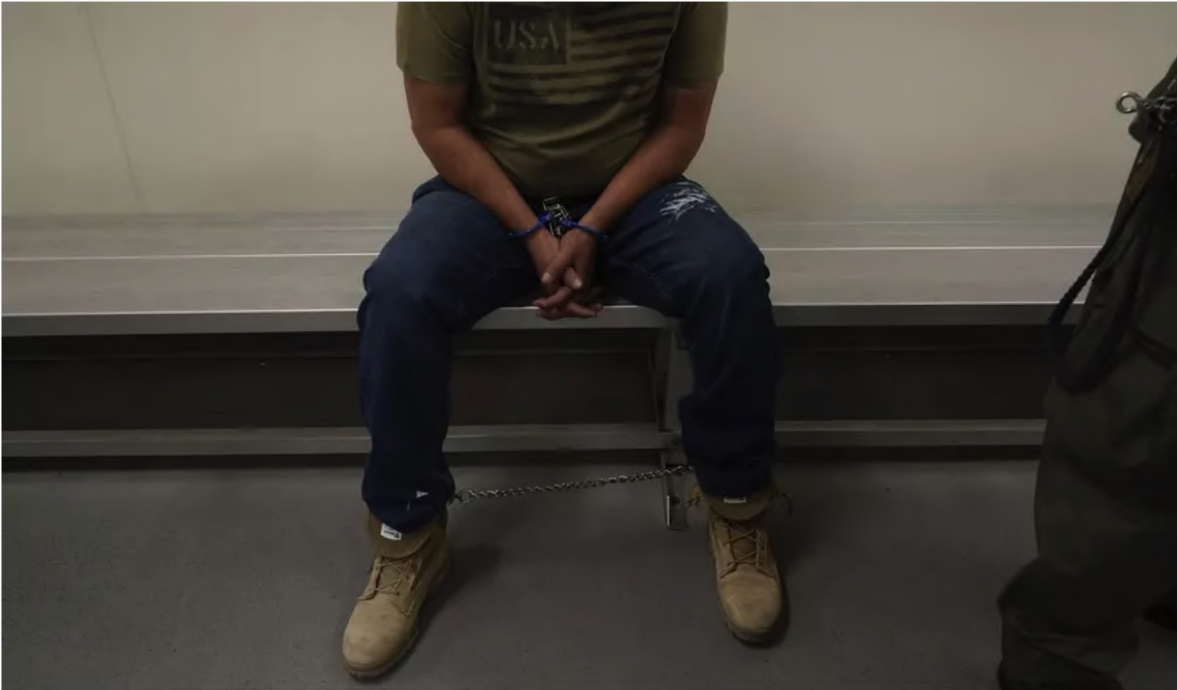


## Appeals court rules against ICE's expansive detention policy



An immigrant considered a threat to public safety and national security waits to be processed by U.S. Immigration and Customs Enforcement agents at the ICE Metropolitan Detention Center in Los Angeles, after an early morning raid, June 6, 2022. (AP...  
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By Stephen Dinan  
*The Washington Times*  
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### What to know

- A federal appeals court ruled illegal immigrants can't be subject to mandatory detention.
- This ruling conflicts with other appeals courts, possibly leading to a Supreme Court case.
- The ruling affects President Trump's mass deportation plans significantly.

A federal appeals court ruled Tuesday that illegal immigrants who make it across the border and aren't immediately caught but are arrested later cannot be subject to mandatory detention by ICE.

The 2nd U.S. Circuit Court of Appeals' 3-0 decision conflicts with several other appeals courts on the same issue, setting up a clash that could force the Supreme Court to weigh in.

At stake is a major part of President Trump's mass deportation plans. When migrants can be detained, they can usually be quickly removed. But if they're ordered released from custody while their cases proceed, deporting them is tougher.

U.S. Immigration and Customs Enforcement last year issued guidance changing long-standing practice and urging detention of illegal immigrants caught in the interior. It issued a new interpretation saying they fell under a section of the law that allows mandatory detention.

“That is not what the law says,” wrote Judge Joseph F. Bianco, a Trump appointee.

At issue is whether people who sneaked into the U.S. but have been here for years are in a similar legal position as people who were caught just as they came over.

Judge Bianco acknowledged they were splitting from other circuit courts but said most lower district judges have ruled his way.

The case before the court involved Ricardo Aparecido Barbosa Da Cunha, a Brazilian who sneaked into the U.S. in 2004 or 2005 and has remained here since.

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He applied for asylum in 2016 and was granted a work permit after that, but last year became a target for ICE arrest and detention.

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