

# US appeals court rejects Trump's immigration detention policy



April 28 (Reuters) - A federal appeals court on Tuesday rejected the Trump administration's practice of subjecting most people arrested in its immigration crackdown to mandatory detention without the opportunity to seek release on bond.

A three-judge panel of the New York-based 2nd U.S. Circuit Court of Appeals ruled that President Donald Trump's administration had adopted a novel but wrong interpretation of a decades-old immigration law to support a mass detention policy.

That ruling came after two other appeals courts ruled the other way, overturning rulings that favored detainees who were denied bond hearings before immigration judges. The differing decisions increase the odds that the U.S. Supreme Court will be forced to weigh in.

U.S. Circuit Judge Joseph Bianco, writing for the court, acknowledged the

other appellate courts' rulings. But he said the panel was parting ways with them and instead joining with over 370 lower-court judges nationally who have rejected the administration's position and held it is misapplying the law.

His ruling upheld an order by a judge in New York that had led to the release of Brazilian national Ricardo Aparecido Barbosa da Cunha, who was arrested by immigration officials last year while driving to work after living in the United States for over 20 years.

Bianco, a Trump appointee, said a ruling to the contrary would result in the 2nd Circuit endorsing "what would be the broadest mass-detention-without-bond mandate in our Nation's history for millions of noncitizens."

Bucking a long-standing interpretation of immigration law, the U.S. Department of Homeland Security last year took the position that non-citizens already residing in the United States, and not just people arriving at the border, qualify as "applicants for admission" subject to mandatory detention.

Under federal immigration law, "applicants for admission" to the United States are subject to mandatory detention while their cases proceed in immigration courts and are ineligible for bond hearings.

The Board of Immigration Appeals, which is part of the Justice Department, issued a decision in September that adopted that interpretation, leading to immigration judges nationally employed by the department to mandate detention.

"The court was right to conclude the Trump administration can't just reinterpret the law at its own whim," Michael Tan, a lawyer for Barbosa at the American Civil Liberties Union, said in a statement.

The U.S. Department of Justice, which is defending the policy in court, did

not respond to a request for comment.

(Reporting by Nate Raymond in Boston; editing by David Gaffen)

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