

118TH CONGRESS
2D SESSION

S. CON. RES. 39

Expressing the sense of Congress that individuals who have been wrongfully or unjustly deported from the United States who established significant ties to the United States through years of life in the United States deserve a chance to come home to reunite with loved ones through a fair and centralized process within the Department of Homeland Security.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2024

Mr. BOOKER (for himself, Mr. PADILLA, Mrs. MURRAY, Ms. HIRONO, and Ms. DUCKWORTH) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

CONCURRENT RESOLUTION

Expressing the sense of Congress that individuals who have been wrongfully or unjustly deported from the United States who established significant ties to the United States through years of life in the United States deserve a chance to come home to reunite with loved ones through a fair and centralized process within the Department of Homeland Security.

Whereas, since 2014, the United States has deported over 2,000,000 individuals, and not every such deportation was fair, just, or accurate under Federal law;

Whereas many individuals who were wrongfully or unjustly deported had resided in the United States for years or

even decades, raising their families, building their own businesses, and contributing to their communities and the United States economy;

Whereas, in *Padilla v. Kentucky* (2010), the Supreme Court states that deportation is a “particularly harsh penalty” and recognizes “the severity of deportation” as “the equivalent of banishment or exile”;

Whereas nearly all individuals who were deported based on an unjust removal order, or who have a new claim to lawful status in the United States since their deportation, do not have an avenue to meaningfully present their case to return home and reunite with their loved ones in the United States;

Whereas there are limited but critical procedures under United States immigration law for allowing wrongfully or unjustly deported individuals to seek return to the United States after deportation, but in practice such mechanisms are difficult to access and onerous to navigate and rarely result in permission to return;

Whereas individuals wrongfully or unjustly deported from the United States include—

(1) individuals who have been separated from their children, families, and loved ones after residing in the United States for years or decades;

(2) recipients of deferred action under the Deferred Action for Childhood Arrivals program who lost such status as a result of protracted litigation related to the program;

(3) individuals targeted for deportation as retaliation for exercising their right under the First Amendment to the Constitution of the United States to protest conditions in the immigration system;

(4) individuals who have succeeded in winning their immigration cases after deportation but nevertheless are unable to return to the United States;

(5) individuals deported for past nonviolent criminal convictions who have subsequently demonstrated a commitment to renewal and to their community;

(6) individuals whose criminal convictions that were the basis of deportation have been expunged or pardoned; and

(7) veterans who served the United States;

Whereas, by permanently separating individuals from their children, spouses, and communities, deportation leads to destabilizing and enduring poverty, food and housing insecurity, and irreparable psychological harm to children left behind;

Whereas many deported individuals are sent back to dangerous conditions that pose a significant risk to their lives and well-being, or to countries where they have no personal ties at all;

Whereas the harms of deportation disproportionately affect Black and brown immigrant families, who are over-represented within the deportation system;

Whereas the Immigration Nationality Act (8 U.S.C. 1101 et seq.), relevant regulations, and Federal agency policy do include certain legal mechanisms and avenues designed to allow an individual to present a case for return after deportation (including through procedures to reopen a closed immigration court case), to effectuate return upon prevailing on an appeal, and to seek discretionary authority to return; however, such mechanisms intended by Congress and the relevant Federal agencies to remedy wrongful or unjust deportations are largely ineffective

and insufficient due to a decentralized review process, associated lengthy wait times, complicated and opaque application procedures, little to no access to counsel, and a lack of resources for line-level decisionmakers with the Department of Homeland Security to meaningfully consider such cases;

Whereas a centralized, dedicated unit within the Department of Homeland Security that offers a fair and independent process for reviewing applications from individuals seeking to return to the United States after a wrongful or unjust deportation would ensure greater fairness and consistency in adjudication, alleviate the burden on individual Government attorneys and immigration courts, and reorient the Department of Homeland Security toward remedying past wrongful or unjust deportation decisions;

Whereas such a unit could exercise the legal and discretionary authority already provided under Federal law to facilitate the return of individuals whose removal orders were contrary to law or justice;

Whereas the Department of Homeland Security has already established a successful central removal review unit, known as “ImmVets”, for the repatriation of wrongfully or unjustly deported United States veterans, including approximately 100 such veterans who have returned to the United States after deportation, which demonstrates the feasibility and effectiveness of such an approach;

Whereas establishing such a unit is wholly within the broad legal authority of the Department of Homeland Security and would bring fairness and credibility to the United States immigration system; and

Whereas bringing home wrongfully or unjustly deported fathers, mothers, community leaders, and workers is essential for moving toward an immigration system that prioritizes family unity, community well-being, economic prosperity, and basic due process: Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
2 *concurring)*, That it is the sense of Congress that wrong-
3 fully or unjustly deported individuals deserve a meaningful
4 chance to come home to the United States and reunite
5 with their loved ones through a centralized unit within the
6 Department of Homeland Security dedicated to reviewing
7 requests for return to the United States.

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