

Immigration Judge Bias and Neutrality – Selected Citations

Matter of Y-S-L-C-, 26 I&N Dec. 688 (BIA 2015) ("bullying or hostile" conduct by IJ has chilling effect on testimony. Also it was a 15 year old kid.)

Elias v. Gonzales, 490 F.3d 444, 451 (6th Cir. 2007) ("An immigration judge has a responsibility to function as a neutral, impartial arbiter and must refrain from taking on the role of advocate for either party.")

Abulashvili v. Att'y Gen of U.S., 663 F.3d 197, 207 (3d Cir. 2011) (finding the IJ was not a neutral arbiter where she conducted all the cross-examination herself (87 questions) and then found omissions that didn't exist, and stating, "The Due Process Clause cannot tolerate a situation where a supposedly neutral fact finder interjects herself into the proceedings to the extent of assuming the role of opposing counsel and taking over cross-examination for the government.")

Wang v. Att'y Gen of U.S., 423 F.3d 260 (3d Cir. 2005) (egregious judge misconduct and moral judgment, including calling the respondent a horrible father; includes detailed discussion of IJ bias with many other citations. "Time and time again, we have cautioned immigration judges against making intemperate or humiliating remarks during immigration proceedings....The tone, the tenor, the disparagement, and the sarcasm of the IJ seem more appropriate to a court television show than a federal court proceeding.")

Islam v. Gonzales, 469 F.3d 53, 55 (2d Cir. 2006) (noting the IJ's job is to be neutral and not be an advocate for either party, and IJ's overly hostile and argumentative manner required remand to a different judge)

Huang v. Gonzales, 453 F.3d 142, 148-151 (2d Cir. 2006) (describing in detail the IJ's bias against and prejudgment of Chinese asylum claims, sarcasm, and badgering the respondent)

Ba v. Gonzales, 228 Fed.Appx. 7, 11 (2d Cir. 2007) (noting that the IJ asked a question that implicated attorney-client privilege which was inappropriate)

Qiu Hui Liu v. U.S Dept' of Justice, 199 Fed.Appx. 11 (2d Cir.2006) (noting the IJ's "startling lack of propriety," inappropriate comments before testimony started, and criticism of respondent's use of Medicaid)

Shen Ying Mei v. Holder, 421 Fed.Appx. 46 (2d Cir. 2011) (remanding where the IJ cross-examined respondent while the attorney was in the bathroom and the BIA failed to consider a country report)

Ali v. Mukasey, 529 F.3d 478 (2d Cir. 2008) (remanding where the IJ engaged in gratuitous and unfounded speculation about gay men; the court acknowledges the case has gone on for years but it needs to continue until Ali received an unbiased hearing).