

The Impact of the Biden Administration's Rollback of Immigration Court Quotas on Judicial

Decision-Making

Angel Sosa Llanos

Emory University

The Impact of the Biden Administration's Rollback of Immigration Court Quotas on Judicial Decision-Making

In the most recent presidential elections, immigration has become an increasingly prominent issue for candidates and constituents, resulting in various immigration policies across administrations. President Biden exemplifies this trend by taking 535 immigration actions over his first three years—63 more than President Trump implemented during his four-year term—primarily focusing on reversing Trump’s policies (Chishti et al., 2024; McLeod et al., 2024). Believing that immigration is beneficial for the nation, the Biden administration stopped funding for the construction of the southern border wall, committed to protecting the administrative relief provided to immigrants from deportation through the Deferred Action for Childhood Arrivals program (DACA), and instructed executive agencies to find ways to enhance opportunities for migrants seeking entry into the United States (Biden, 2021; McLeod et al., 2024; Renshon & Suedfeld, 2024). The Biden administration also regarded immigration courts as a potential means for the president’s preferred policy. A prime example of the president utilizing immigration courts to advance his agenda is the Biden administration’s repeal of the Trump administration’s quota policy.

In response to the GAO’s recommendation and in pursuit of a strict immigration policy, the Trump administration quickly implemented the EOIR Performance Plan. This internal document required high case completion rates and low decision reversals on appeal (remand rate). The performance plan requires judges to complete 700 cases annually with a remand rate of less than 15% (Sessions, 2018). Furthermore, the plan categorizes immigration judges into one of three satisfaction levels—satisfactory, unsatisfactory, or needs improvement—based on their

ability to meet the requirements. This allows for potential career repercussions for judges with unsatisfactory performances.

In October 2021, the Biden administration's Department of Justice ended the quota policy, terminating the monitored case completion and reversal rates. Many people supported the decision, viewing the removal as a positive first step and emphasizing the need to restore immigration judges' independence and integrity (Alvarez, 2021; American Immigration Lawyers Association, 2021; Wagner, 2021). Eliminating the quota policy could enable judges to express their preferred decision-making, freedom lost after its implementation (Blasingame et al., 2023a).

However, this begs the question, does removing the quota policy affect immigration judges' decision-making? To examine whether the elimination of the quota policy impacted immigration judges' behavior, I analyze federal immigration court data from before and after the policy's removal in 2021. After examining the data, I found that judges expected to act favorably toward noncitizens are more likely to issue *in absentia* removal decisions following the quota policy removal, contrary to our expectations. Conversely, judges likely to act unfavorably toward noncitizens maintain their negative behavior after the quota policy is removed by being more likely to issue *in absentia* removals. The opposite is true regarding merits removal orders; judges anticipated to favor noncitizens are less likely to issue merits removal orders after the elimination of the quota policy, which aligns with our expectations. In contrast, judges whom we expect to be less favorable to noncitizens also demonstrate favorable behavior after the removal of the quota policy, issuing fewer merits removal orders.

Literature Review

The crux of immigration court research revolves around its independence and autonomy relative to the president. Some argue that immigration courts exhibit the superficial characteristics of adversarial courts, yet they conform to a strict hierarchical bureaucracy, highlighting a troubling issue where a crucial institution fails to align with the significant risks tied to its decisions (Jain, 2019). Jain (2019) finds that interviewed judges claimed to be skeptical of their supervisors as they seemed to have goals that did not align with the goals of immigration judges, leading to top-down restrictions. Immigration judges are not protected by the Administrative Procedure Act (APA), which makes them non-APA judges and subjects their independence to more erosion. Located in the executive branch, immigration judges must adhere to the wishes of the Attorney General due to the absence of APA protection, enabling the AG to intervene in cases where they lack confidence in an immigration judge's decision (Chand, 2019). Due to their mandatory obedience to the executive branch, immigration judges are frequently called "attorneys" for the government rather than judges, highlighting their liminal existence and interdependence (Slavin & Marks, 2015). While examining the relationship between the president and the courts and their resulting autonomy provides valuable context for understanding instances of executive overreach and judicial response, this literature neglects to consider specific policy changes and their impact on judicial decision-making, revealing a gap in the literature. Knowledge of immigration judges' suspension between attorney and adjudicator provides a foundation to explain why presidential decisions may affect decision-making; however, I take this a step further by applying this knowledge to the specific instance of the Biden administration removing the quota policy.

Other immigration court literature aligns more closely with this model, particularly in analyzing presidential authority over immigration courts, often focusing on specific presidents as case studies. For instance, some research explores how President George Bush sought to politicize the process of selecting immigration judges, ultimately appointing judges with strong ties to the Republican Party and limited experience in immigration law, even though judges are not supposed to be influenced by partisan criteria (Kim, 2018; Kim & Semet, 2020; Moynihan & Roberts, 2021). Others examine the Obama administration's efforts to reduce the backlog in immigration courts by encouraging prosecutorial discretion for noncitizens deemed a threat to national security, those convicted of three or more misdemeanors or one serious misdemeanor, and noncitizens who have received a final order of removal (Kerwin & Millet, 2023). Although work highlighting cases of presidential influence over immigration courts provides precedent for future executive actions, these studies do not include the most recent examples of presidential overreach (i.e., President Trump and President Biden), which were uniquely impactful toward judicial decision-making. Even though Bush further politicized the judge pool and Obama heavily encouraged specific discretion, neither of these examples directly speaks to the president's ability to influence decision-making, the last safeguard of independence. This paper mends this gap in the literature by examining how Biden may have altered decision-making by removing Trump's court quotas.

Other literature in the field has patched the lack of specific application and reduced its scope to presidential control over judicial decision-making. In 2023, Blasingame et al. contributed work that addressed these gaps by examining the effect of the Trump administration's EOIR Performance Plan on judicial decision-making in immigration courts. The authors perform a descriptive and regression analysis of judges' removal decisions before and

after the policy was implemented, discovering an increase in removals for judges likely to be favorable toward noncitizens. This suggests that the Trump administration successfully advanced its preferred immigration policy through the courts, demonstrating presidential influence over judicial decision-making. Even though this study provides helpful insight into the effect of the quota policy on decision-making, it fails to account for the removal of the policy by the Biden administration in 2021. To build on Blasingame et al. (2023), this study replicates the author's methodology but extends the timeframe to the most recent administrative data to examine the removal of the policy.

Theoretical Argument

For non-citizens, the removal process begins the moment the Department of Homeland Security (DHS) issues a Notice to Appear (NTA) (U.S. Department of Justice, Executive Office for Immigration Review, 2017). According to the EOIR, after the immigration court receives the NTA, the court will schedule an initial hearing with an immigration judge. If the noncitizen appears at their scheduled hearing, the immigration judge may proceed with a merit hearing whereby the government and the foreign national will outline their substantive arguments for and against the noncitizen's removal, ultimately leading to the judge's decision to remove or grant relief from removal to the noncitizen (Justicia, n.d.; U.S. Department of Justice, Executive Office for Immigration Review, 2017).

If the applicant fails to appear or delays their scheduled hearing, the immigration judge will commence an *in absentia* hearing in which the noncitizen is not present (U.S. Department of Justice, Executive Office for Immigration Review, 2017). During an *in absentia* hearing, the

immigration judge may order the removal of the noncitizen if the applicant is found to be removable and has received notice of the hearing and the consequences for failing to appear.¹

For several reasons, the Trump administration's performance plan and subsequent case quotas and remand thresholds may affect the outcome of both merit and *in absentia* hearings. Beginning with merit hearings, to be politically responsive, the quotas may have influenced judges "who were more likely to...favor...noncitizens pre-policy to strategically alter their merits decision-making in a pro-government, anti-immigrant direction" (Blasingame et al., 2023a). In a memorandum for the EOIR, then-Attorney General Jeff Sessions (2017) repeatedly reminded the need for immigration judges to "enforce the law and defend the interests of the United States according to the law" and to put "an end to unlawfulness in [the] immigration system." This memorandum, coupled with the Trump administration's previous restrictive immigration policy, clearly indicates the executive's interest in removing immigrants. Therefore, we may expect judges, especially those initially opposed to Trump's policy position, to issue more removal orders to appease the administration's desires. In addition to quotas, judges needed to maintain a remand rate of 15% or lower, which may also lead to more removal rates as IJs are aware of the political climate in which they operate. If an applicant disagrees with the judge's decision, they can appeal to the Board of Immigration Appeals (BIA) to review the verdict and determine its standing (U.S. Department of Justice, Executive Office for Immigration Review, 2022a). The BIA "is the highest administrative body for interpreting and applying immigration laws" impartially, comprised of 28 members, "including a Chairman and up to two Vice Chairmen," who are appointed by the attorney general and serve 15-year terms (U.S. Department

¹ 8 CFR Part 1003

of Justice, Executive Office for Immigration Review, n.d.; U.S. Congress, 2022).² Although meant to be impartial, the Trump administration heavily politicized the BIA by attempting to buyout career servants, changing hiring procedures and ultimately reassigning noncompliers “to help meet [the administration’s] goal of reducing immigration” (Misra, 2019; Misra, 2020a; Misra, 2020b). Cognizant of the increased politicization of the board, judges would be more likely to issue more removal orders since they would be “perceived as being more likely to survive appellate review before the Attorney General and Board of Immigration Appeals” (Blasingame et al., 2023a).

Aside from merit hearings, the quota policy would also lead to judges issuing more *in absentia* removal orders because of their inherent efficiency. As mentioned, *in absentia* removals authorize judges to circumvent the process of hearing substantive arguments, making them quicker than merit removal orders. This, coupled with Sessions’s aggressive highlighting of volume and productivity being critical to address backlogs, would cause *in absentia* removal orders to increase as judges attempt to appease the executive. Moreover, the discretionary nature of *in absentia* removals means that judges who were more favorable to noncitizens under the pre-Trump policy would have less room to prolong hearings to satisfy the quota requirement, which triggers them to order more removals. The requirement to remain below a 15% remand rate would similarly affect removal orders due to the limited appeals process. Applicants may not appeal “an order of removal entered in absentia.”³ Recipients of removals entered *in absentia* may only file a motion to reopen and thus rescind the order of removal if “they did not receive notice of the hearing” and “they did not appear at their hearing because of exceptional circumstances,” which are minimal cases (Werlin, 2010). Because of their narrow appeal criteria,

² 8 CFR 1003.1

³ 8 CFR § 1240.15

judges are more likely to proceed with *in absentia* removal orders, as they are less likely to be overturned on appeal and thus act as an instrument to protect their remand rate.

In 2021, Biden's Justice Department abolished the EOIR Performance Plan, eliminating case quotas and remand rate thresholds for immigration judges (Alvarez, 2021; American Immigration Lawyers Association, 2021; Wagner, 2021). This removal relieved judges of the obligation to manage 700 cases annually and lifted the requirement that no more than 15% of their cases be overturned on appeal. The policy changes restored performance standards for judges to the pre-Trump era, providing greater independence to all immigration judges. While the Biden administration's dismantling of the quota policy mirrored Trump's implementation, the nature of these policy shifts differed, better informing our expectations. Contrary to the original legislation, Biden's removal did not impose standards that would proactively affect the behavior of judges, particularly Republicans. Instead, removing the policy eliminated oversight that allowed judges to act how they would naturally behave.

Judges considered immigrant-friendly likely adjusted their decision-making strategies to align with executive preferences while monitored, aiming to avoid professional backlash. These include Democratic judges, female judges (Ramji-Nogales et al., 2007), Latinx judges, judges lacking prosecutorial experience, military experience, DHS or INS experience, and those with legal aid experience. Once the scrutiny is removed, I expect these judges to revert to their pre-Trump behavior, resulting in fewer *in absentia* and merits removals, echoing their underlying favorable stance toward noncitizens.

In contrast, the behavior of less sympathetic judges, the opposite of the favorable judges, is unlikely to change since the removal of the policy does not threaten their decision-making.

Because they are not under scrutiny, these less-favorable judges may persist in their behaviors, including higher rates of *in absentia* and merits cases removals.

Data and Methods

This study replicates the methodology outlined in Blasingame et al.'s paper, *How the Trump Administration's Quota Policy Transformed Immigration Judging* (2023a). I follow the original study's protocol by using data from the EOIR FOIA Library (U.S. Department of Justice, Executive Office for Immigration Review, 2022b), which includes information about every immigration court case, including outcomes. Unlike the original study, this study focuses on the removal of the EOIR Performance Plan and its effects compared to its implementation, not just the enactment of the quota policies. To effectively examine these policy changes, we expand the data we examine from January 1, 2012, to October 2024. Within these dates, we will focus on *in absentia* removal proceedings and merits decisions. I specifically conduct a descriptive and regression analysis to view the effect of the policy changes. The descriptive analysis covers the entire timeframe, while the regression analysis is restricted to one year before and after the policy is removed. Similar to the original study, we limit our sample to judges who presided over cases during the Trump and Biden policy changes to determine a causal effect best.

In this study, the dependent variable of interest is the outcomes of immigration cases. We specifically focus on In Absentia Removal Orders and Merits Removal Orders. The independent variable is the removal of the EOIR Performance Plan, which is coded as a dichotomous variable—marked as one if an immigration judge's decision occurs after October 19, 2021, and zero if it occurs before. Notably, this deviates from the original study, which concentrates on the application of the performance plan.

Following the seminal study, our model incorporates judge—and case-level factors relevant to immigration decision-making. Before delving into each variable, this study uses Blasingame et al.'s (2003b) *Judge Data*, provided in their replication materials.

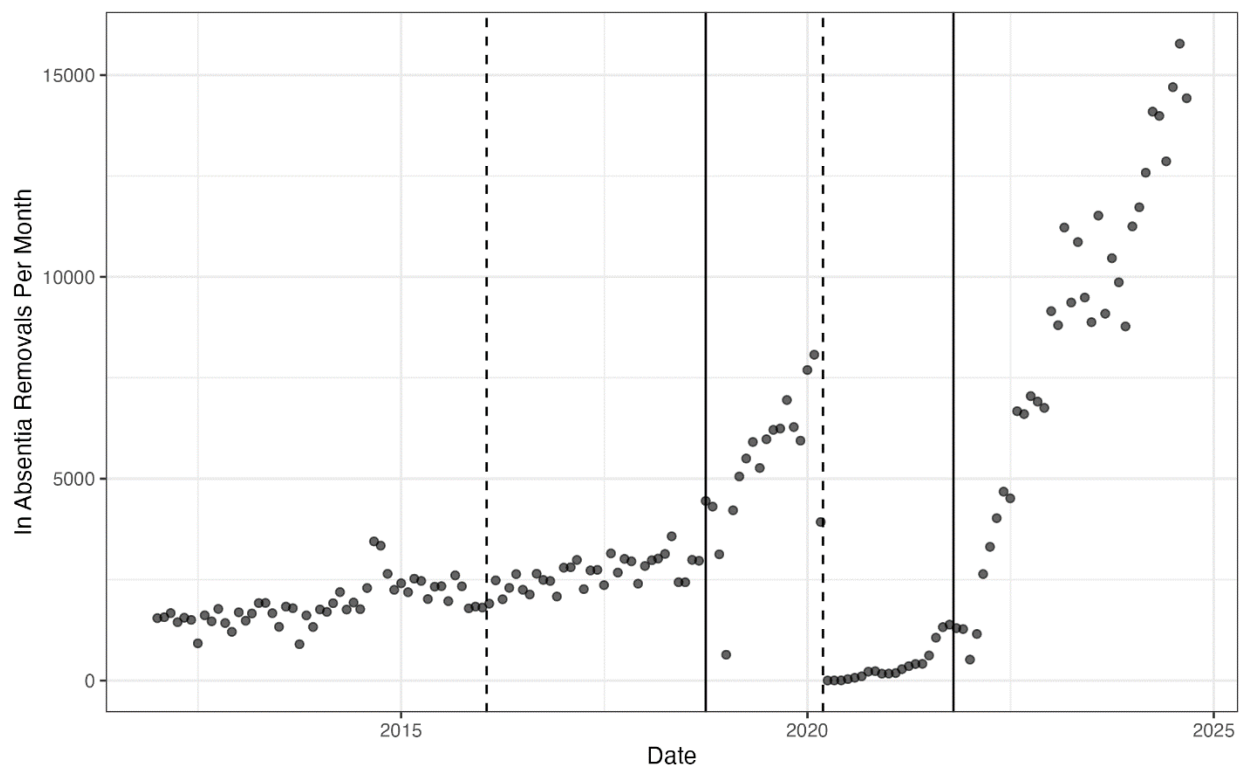
Results

In Absentia Removal Orders

Figure 1 represents monthly rates of *absentia* removals of noncitizens until October 2024. The figure depicts a notable increase in *in absentia* removal decisions following the removal of the Trump administration's quota policy. A year before the policy was removed, immigration judges delivered roughly 2600 *in absentia* rulings and 11,600 after the policy was revoked. These raw *in absentia* removal counts translate to a removal rate of 3.7% pre-policy rollback and 8.6% post-policy rollback, a 4.9 percentage point increase. This is the same increase found in the original paper. However, it is important to recognize that the post-Biden removal rates are roughly 10 percent points smaller than the post-Trump removal rates because the pandemic greatly decreased the number of cases being heard. Regardless of COVID-19, these descriptive results are not consistent with the expectations of this study since we would expect the judges who had to strategically change their decision-making to revert to their pre-Trump behavior, thus decreasing the rate of *in absentia* removals.

Figure 1.

Monthly Rates of In Absentia Removal Orders Before and After the Trump and Biden Policy Change for Noncitizens

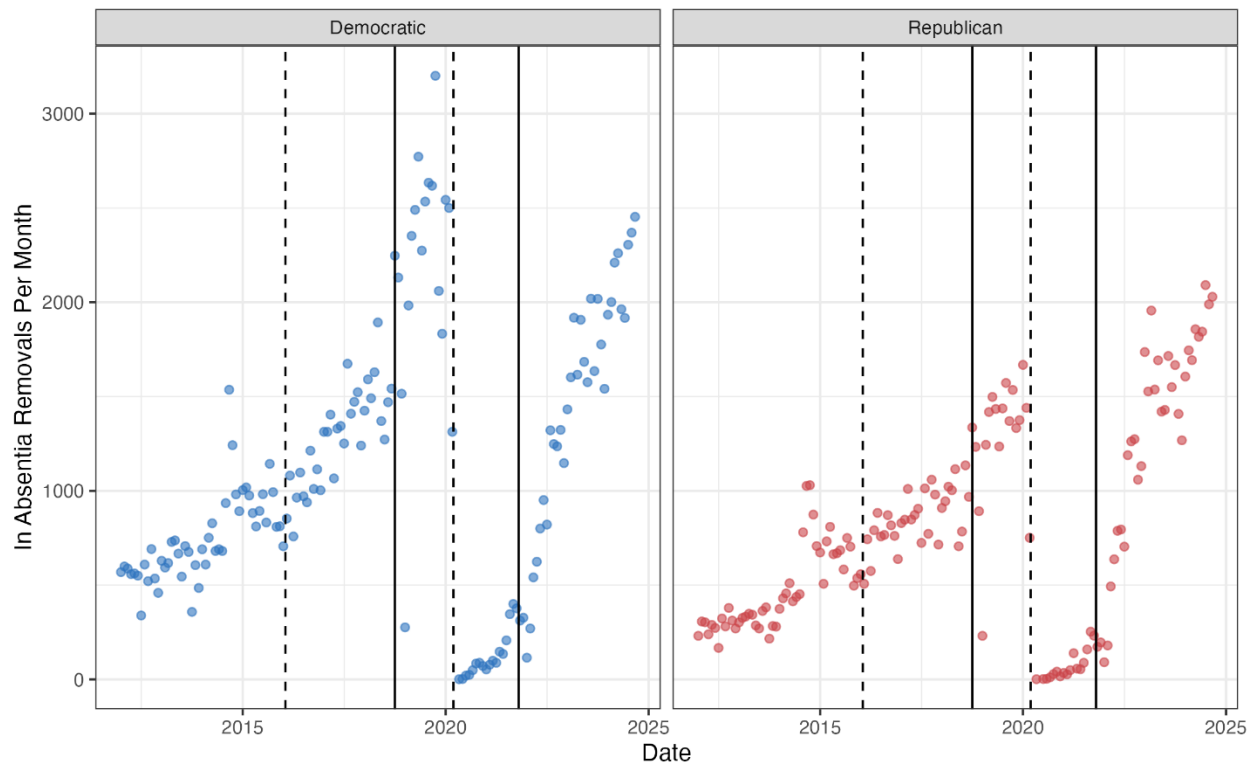


Note. The solid lines mark the implementation of the EOIR Performance Plan and the removal of the policy, respectively. The dashed lines mark the beginning of the Trump administration and the COVID-19 pandemic. Each point represents a month of *in absentia* removal orders.

Following this logic, we expect judges who are more likely to be favorable to noncitizens, such as Democrats, will be most likely to revert their behavior to the pre-Trump era since they no longer must comply with the quota policy. We expect judges who are less likely to be favorable, such as Republicans, to remain the same. Figure 2 demonstrates the number of monthly *in absentia* rulings between immigration judge party identification. Similar to the post-Trump policy, Democrat and Republican judges both increased their rate of *in absentia* removals after the Biden administration removed the performance plan. However, while Democratic judges sharply increased their removal rates compared to Republican judges after the quota

Figure 2.

Monthly In Absentia Removal Orders Before and After the Trump and Biden Policy Change for Noncitizens for Democratic and Republican Judges.

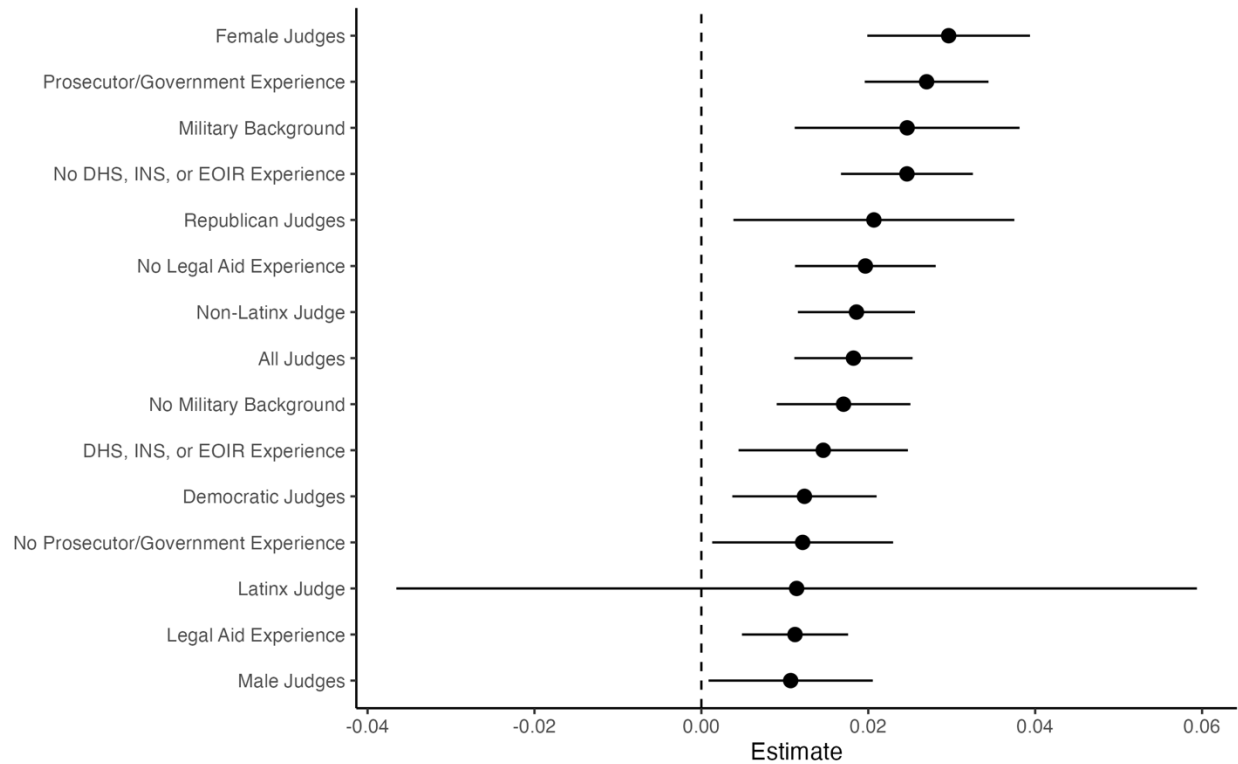


Note. The solid lines mark the implementation of the EOIR Performance Plan and the removal of the policy, respectively. The dashed lines mark the beginning of the Trump administration and the COVID-19 pandemic. Each point represents a month of *in absentia* removal orders.

policy was implemented, both Democrats and Republicans experienced a strikingly similar rise in *in absentia* decisions after the quota plan was removed, contrary to our expectations.

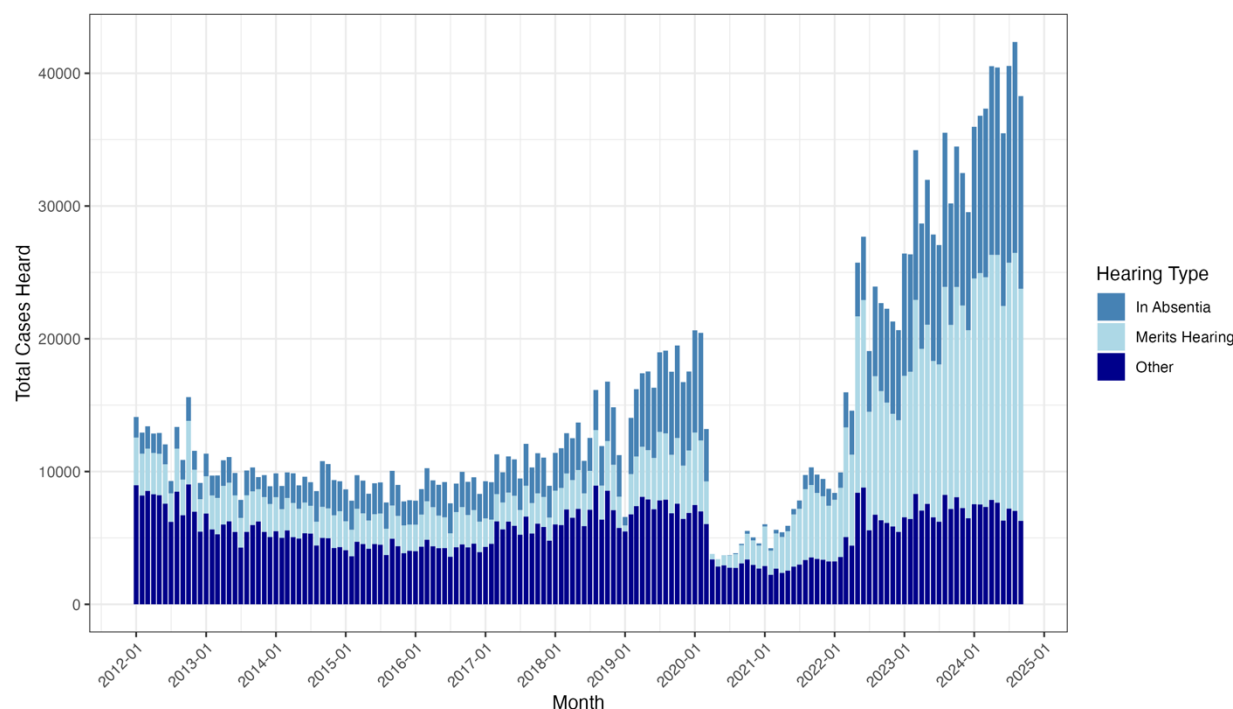
The average immigration judge was roughly two percentage points more likely to hand out *in absentia* removal orders after the policy was implemented (See Appendix A). Figure 3 demonstrates the estimated conditional average effects of removing the quota policy across various variables of interest. The findings are different from our expectation that judges who are more likely to be favorable toward noncitizens are less likely to issue *in absentia* rulings after the policy is removed. For instance, female judges (+2.9 percentage points), judges with a lack of experience as a prosecutor (+1.2 percentage points), judges without experience working for the government on immigration matters (INS or DHS) (+2.4 percentage points), judges with legal aid experience (+1.1 percentage points), judges with a lack of military experience (+1.7 percentage points), Democrat judges (+1.2 percentage points), and Latinx judges (+1.1 percentage points) all are more likely to deliver *in absentia* decisions after the removal of the policy despite our expectation of them being less likely to. Regarding Latinx judges, it is important to recognize that this percentage point is not statistically significant, so these results should be interpreted cautiously since the sample of Latinx judges is small.

In contrast, the judges we expected to act unfavorably toward noncitizens maintained their behavior. This includes Republican judges (+2.0 percentage points), non-Latinx judges (+1.8 percentage points), judges with prior experience working for the INS or DHS (+1.4 percentage points), judges with prior experience working as prosecutors, and male judges (+1.0 percentage points). Although it seems unfavorable judges retained their unfriendly behavior, the difference between the treatment effect in our study and the original study is unclear, making it difficult to discern if judges' behavior remained precisely the same.

Figure 3.*Conditional Average Treatment Effects Estimated and 95% Confidence Intervals, In Absentia*

Note. Estimations based on regression results are reported in Appendix A.

Two potential reasons may explain our findings. First, regarding the descriptive statistics between Democratic and Republican judges, the sharp increase of *in absentia* rulings between both groups may be explained by the increased caseload experienced after COVID-19. Figure 4 represents a raw count of cases heard in immigration courts between 2012 and 2025, disaggregated by type of hearing. Compared to the EOIR Performance Plan period (Between October 2018 and October 2021), judges in the post-performance Plan removal (October 2021) heard significantly more cases. Naturally, their raw *in absentia* rulings would subsequently increase. Secondly, if the pandemic period is removed from the figure, the endpoint of *in absentia* rulings seems to follow a natural increase established before the quota policies implementation.

Figure 4.*Monthly Total of Immigration Cases Heard by Hearing Type Between 2012 and 2025*

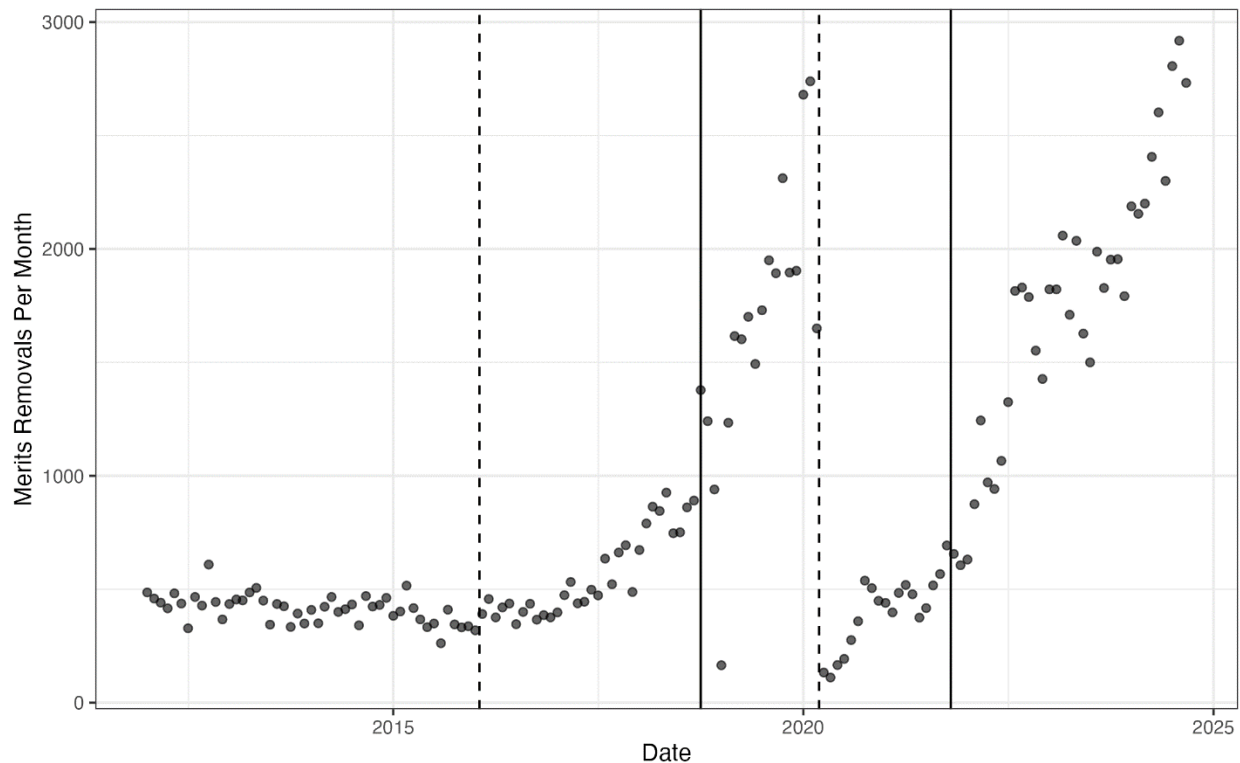
Note. Each bar represents a month in the year in chronological order.

Merits Removal Orders

Following the previous procedure, we begin with our second dependent variable- merits removal orders. Beginning with the descriptive analysis, Figure 5 represents the number of merits removal orders issued each month before and after the quota policy was implemented and removed. As demonstrated by the graph, the raw count of merits-based removals increased significantly after the policy was removed. The number of merits-based removals post-policy removal seems to match exactly with the trend established after the Trump administration implemented the policy. This finding goes against our expectations, as we expected some judges to revert to their more favorable behavior toward noncitizens, which would decrease the number of merits-based removals.

Figure 5.

Monthly Rates of Merits Removal Orders Before and After the Trump and Biden Policy Change for Noncitizens

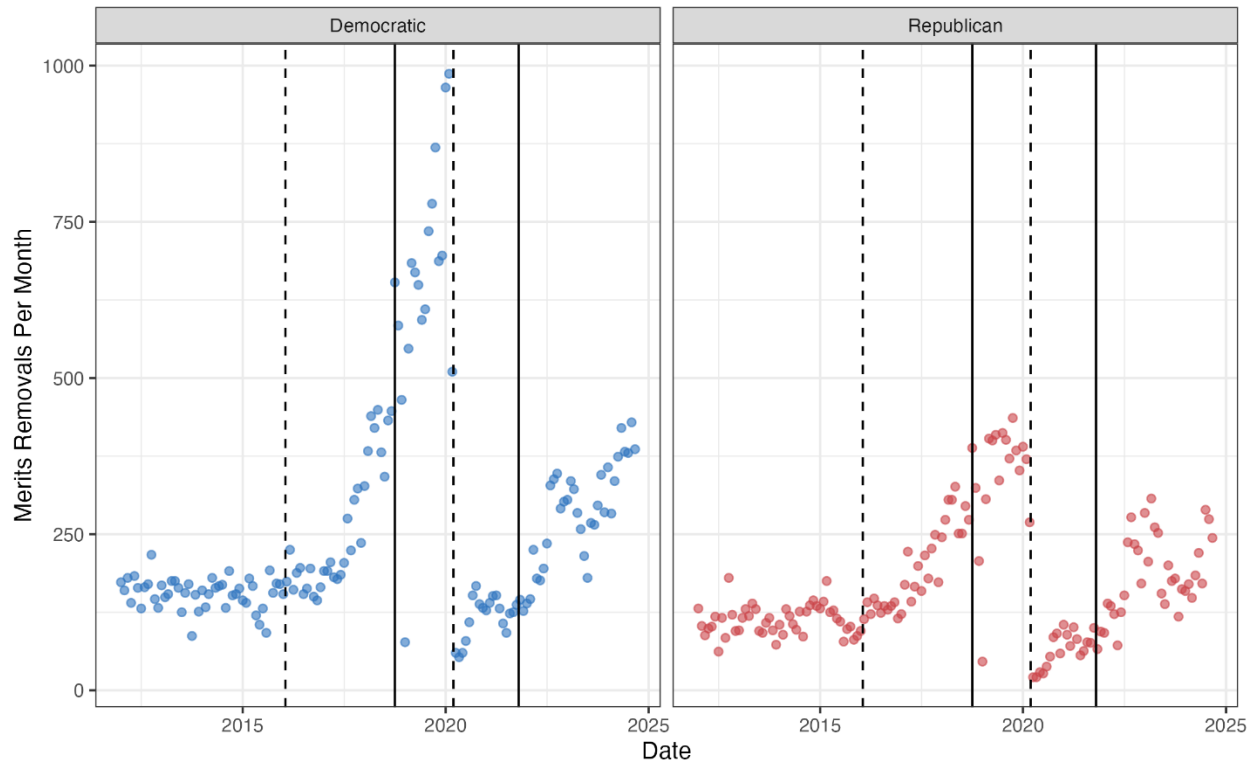


Note. The solid lines mark the implementation of the EOIR Performance Plan and the removal of the policy, respectively. The dashed lines mark the beginning of the Trump administration and the COVID-19 pandemic. Each point represents a month of merits removal orders.

The trend of increased merits-based removal rulings continues when subdividing by demographic variables, such as party affiliation. Figure 6 represents the merits removal orders issued by immigration judges every month before and after the quota policy was implemented and removed, differentiating by Democratic and Republican judges. Like the *in absentia* descriptive analysis between Democrats and Republicans, Democrat and Republican judges in the post-policy removal period both increased the amount of merits-based removal orders at a strikingly similar rate. If not similar, our graph indicates that Democrats were issuing more removal orders than Republicans after the removal of the policy.

Figure 6.

Monthly Merits Removal Orders Before and After the Trump and Biden Policy Change for Noncitizens for Democratic and Republican Judges.



Note. The solid lines mark the implementation of the EOIR Performance Plan and the removal of the policy, respectively. The dashed lines mark the beginning of the Trump administration and the COVID-19 pandemic. Each point represents a month of merits removal orders.

This finding also goes against our paper's expectations, as we expect judges who are more likely to be favorable toward noncitizens (i.e., Democrats) to exhibit more favorable behavior after the strict quota policy was revoked, where our findings suggest they are engaging in less favorable behavior compared to republican judges.

According to our regression analysis (See Appendix B), the average immigration judge was roughly 6.4 percentage points less likely to issue a merits-based removal order after the quota policy was revoked. The steep decrease in merits-based removal orders indicates that the

Biden administration successfully removed the policy to achieve their desired immigration policy.

Figure 7 indicates the estimated conditional average effects of removing the quota policy across various variables of interest in issuing merits-based removal orders. Once again, the estimated treatment effects generally confirm our expectations, as most of the subgroups we expected to revert to favorable behavior followed suit. However, the same cannot be said about other demographic groups that we expected to remain unaffected by the policy's removal.

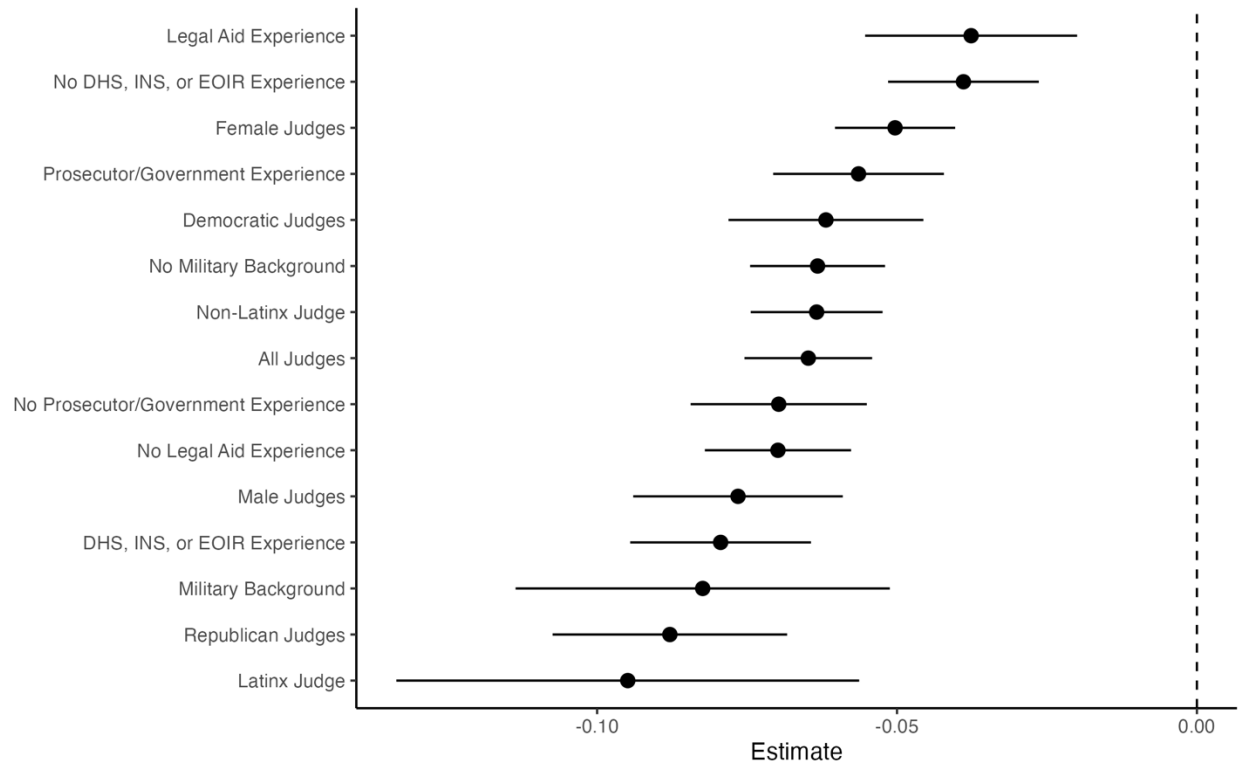
For example, several judges in groups we expected to be favorable toward noncitizens did display a decreased likelihood of issuing merits-based removal orders, such as Latinx judges (-9.4 percentage points), Democratic judges (-6.1 percentage points), judges without experience working for the government on immigration matters (INS or DHS) (-3.8 percentage points), female judges (-5.0 percentage points), judges with legal aid experience (-3.7 percentage points), judges with no military experience (-6.3 percentage points), and judges without experience as a former prosecutor (-6.9 percentage points). Although each subgroup that we expected to decrease their likelihood of issuing merits-based removal orders followed as predicted, the same is not demonstrated by judges whom we expect to remain unaffected by the removal of the policy, which seem to have been affected.

For instance, after the Trump administration issued its quota plan, Republican judges and judges with military experience exhibited indistinguishable behavior, suggesting the groups remained unaffected by the change. In contrast, all judges whom we expected to remain unaffected by the policy shift, including Republican judges (-8.7 percentage points), judges with a military background (-8.2 percentage points), judges without legal aid experience (-6.9 percentage points), judges with experience working for the government on immigration matters

(INS or DHS) (-6.9 percentage points), judges with experience as a former prosecutor (-5.6 percentage points), male judges (-7.6 percentage points), and non-Latinx judges (-6.3 percentage points) dramatically shifted their behavior in a favorable direction toward noncitizens.

Figure 7.

Conditional Average Treatment Effects Estimated and 95% Confidence Intervals, Merits

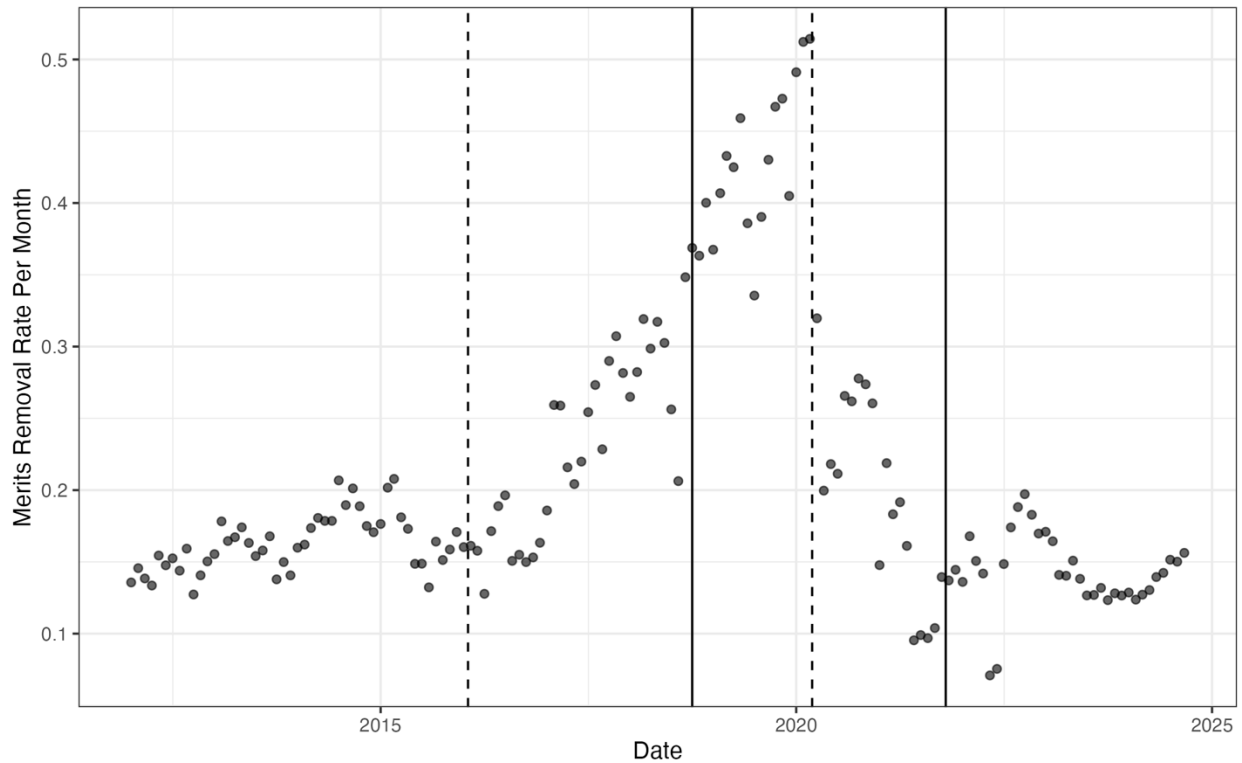


Note. Estimations based on regression results are reported in Appendix B.

Two potential reasons may explain our findings. First, the count used to demonstrate the descriptive analysis for merits removal orders must illustrate the complete picture. Figures 8 and 9 display the relationships described in Figures 5 and 6, respectively, while adjusting for rate (rate is the number of merits removal orders by the number of all cases heard). Figures 8 and 9 challenge the trends established by Figures 5 and 6, demonstrating a sharp decrease in the rate of merits-based removal orders after COVID-19, which continues after the quota policy is removed. The trend of decreased merits removals exists for all judges, Democrat and Republican alike.

Figure 8.

Monthly Rates Merits Removal Orders Before and After the Trump and Biden Policy Change for Noncitizens for Democratic and Republican Judges.

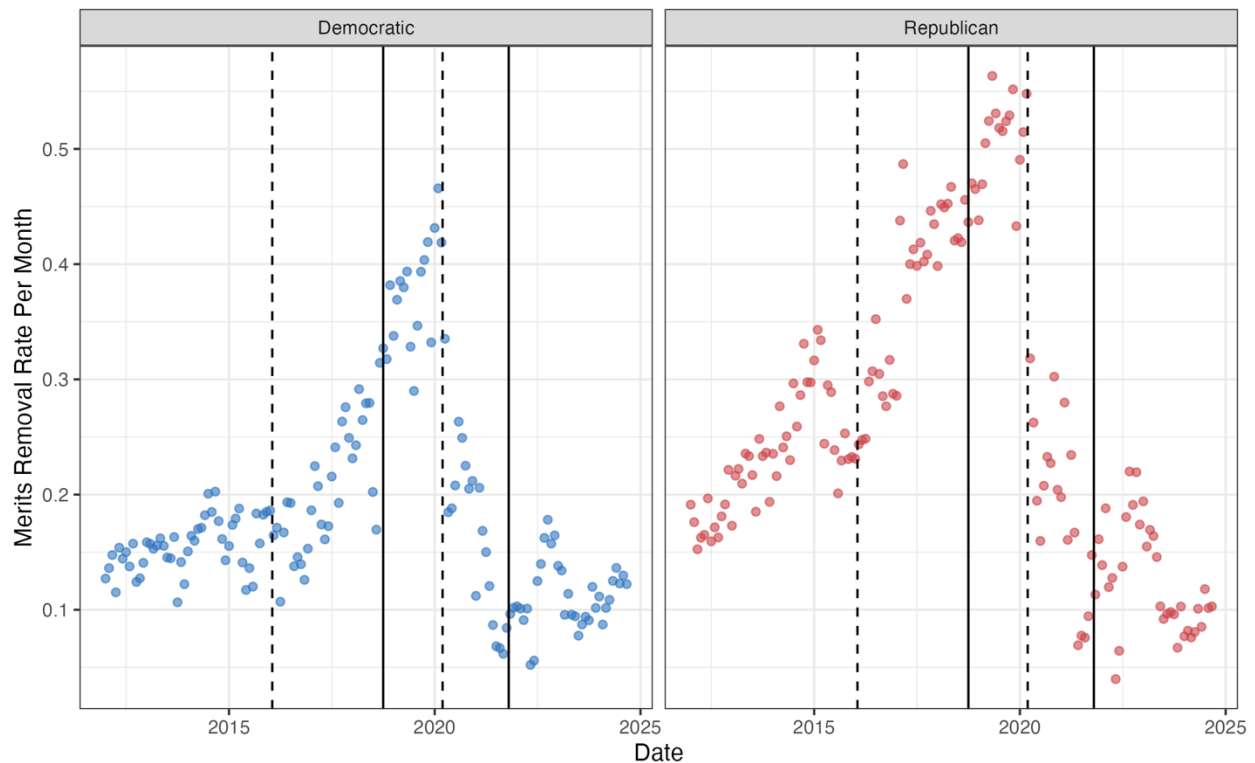


Note. The solid lines mark the implementation of the EOIR Performance Plan and the removal of the policy, respectively. The dashed lines mark the beginning of the Trump administration and the COVID-19 pandemic. Each point represents a month of merits removal orders.

Second, referring to Figure 4, the number of merits-based hearings after removing the policy was dramatically more prominent than the caseload during the policy's existence. Since the policy was removed, merits hearing doubled, if not nearly tripled. The increase in overall caseload helps explain why it appears that the amount of merits removal orders increased for both Democrats and Republicans, even though the actual merits removal rate sharply decreased from the post-Trump policy era. Although the shift in rates accounts for the discrepancy in the findings, Democrats and Republicans still share a strikingly similar merits removal rate under this technique, which goes against our expectations

Figure 9.

Monthly Rates Merits Removal Orders Before and After the Trump and Biden Policy Change for Noncitizens for Democratic and Republican Judges.



Note. The solid lines mark the implementation of the EOIR Performance Plan and the removal of the policy, respectively. The dashed lines mark the beginning of the Trump administration and the COVID-19 pandemic. Each point represents a month of merits removal orders.

Discussion

Our results indicate that the Biden administration's removal of the Trump administration's quota policy achieved its desired results with merits removal orders but not *in absentia* rulings. While merits-based removal orders were reduced after the quota policy was removed, *in absentia* rulings increased for both favorable and unfavorable judges. Notably, judges' behavior, regardless of demographic differences (e.g., party affiliation, gender, ethnicity, previous work experience, etc.), was relatively uniform, increasing and decreasing at the same

rate for favorable and unfavorable judges. This trend leads to two potential implications: lasting effects or general presidential influence.

Regarding the lasting effects, the continued increase of *in absentia* removals may be attributed to Trump's quota policy. This quota policy might have fostered a culture of efficiency and case closure, which in *absentia* rulings serve to fulfill. Depending on these removals to meet this established culture may have fostered a sense of dependency, leading judges to simply follow the norm set by the policy, making it challenging to break free when no formal rule compels judges to act differently. Judges' subconscious adherence to performance metrics and a lack of proactive measures to challenge the institutional memory helps explain the rise in *absentia* rulings. However, they fall short when applied to merits removal orders. If judges operated on institutional memory, we should see the same trend in merits removal orders, which is not the case. While it does not explain both findings, this potential explanation implies that presidential decisions can have long-lasting effects beyond their term, which further erodes the independence of immigration courts.

Another explanation that helps convey a holistic understanding of the findings is that immigration judges are more responsive to administrative changes rather than policy. Referencing the previous figures, there is an uptick in *absentia* and merits removals the moment President Trump assumes office, demonstrating a strategic response by judges to satisfy the sitting president and preserve their careers. A similar pattern can be seen in merits removals after the Biden administration removed the quota policy, as both Democrat and Republican removal rates declined to a pre-Trump level. Under this explanation, the increase of *in absentia* rulings can be explained by citing the increased number of cases heard (i.e., the more cases, the more *in absentia* removals) since this is not a rate. This explanation challenges the findings in the

original paper as we believe judicial decision-making would be affected regardless of the quota policy. Although this explanation helps interpret some patterns in the results, it does not explain the original papers' convincing findings across covariates. Nevertheless, accepting this explanation means that judges are responsive to administration changes, meaning their behavior will ebb and flow term by term until they are given further independence.

Recognizing this study's limitations is crucial before accepting the conclusions from the results. First, the timeframe for the regression analysis in our study is a year before and a year after the policy's removal. Since the policy was removed on October 19th, 2021, our lower bound is set at October 19th, 2020, roughly two and a half months before Biden takes office. Although our regression captures the tail end of Trump's term, judges would have known Biden was the incoming president roughly three weeks later, allowing them to adjust their behavior without fear of repercussion. The lower bound is only 7 months after COVID-19 was declared a pandemic, which shut down numerous institutions, including immigration courts. While the pandemic significantly impacted immigration courts, some hearings still occurred during this time, but the removal rates on merits continued to decline. Future studies should reduce the timeframe to 6 or 3 months on either side of the removal to stress test the findings.

Another limitation of this study is the judges included in the analysis. I used Blasingame et al.'s (2023b) replication material, which included their judge data. The data included judges who heard cases a year before and after the quota policy was implemented, resulting in a total of roughly 300 judges. While some judges heard cases during the Trump and Biden administrations, the analysis does not include any judges appointed under Biden, which may significantly affect the results as these judges are more likely to be responsive. Future research should include these judges in the analysis and compare them to judges in the existing dataset.

References

- Alvarez, P. (2021, October 20). *Justice Department eliminates trump-era case quotas for immigration judges* | *CNN politics*. CNN.
<https://www.cnn.com/2021/10/20/politics/immigration-judges-quotas/index.html>
- American Immigration Lawyers Association. (2021, October 10). *Biden administration rightly removes artificial quotas for immigration judges*. American Immigration Lawyers Association. <https://www.aila.org/library/biden-administration-rightly-removes-artificial>
- Benner, Katie. 2018. "Immigration Judges Express Fear that Sessions's Policies Will Impede Their Work." *New York Times*, June 13.
<https://www.nytimes.com/2018/06/12/us/politics/immigration-judges-jeff-sessions.html>.
- Biden, J. R. (2021, February 4). *Executive order on creating a comprehensive regional framework to address the causes of migration, to manage migration throughout North and Central America, and to provide safe and orderly processing of asylum seekers at the United States border*. The White House. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-creating-a-comprehensive-regional-framework-to-address-the-causes-of-migration-to-manage-migration-throughout-north-and-central-america-and-to-provide-safe-and-orderly-processing/>
- Blasingame, E. N., Boyd, C. L., Carlos, R. F., & Ornstein, J. T. 2023a. How the Trump Administration's Quota Policy Transformed Immigration Judging. *American Political Science Review*, 1–16. doi:10.1017/S0003055423001028
- Blasingame, Elise N., Christina L. Boyd, Roberto F. Carlos, and Joseph T. Ornstein. 2023b. "Replication Data for: How the Trump Administration's Quota Policy Transformed

Immigration Judging.” Harvard Dataverse. Dataset.

<https://doi.org/10.7910/DVN/GXXUHV>.

Chand, D. E. (2019). Protecting Agency Judges in an Age of Politicization: Evaluating Judicial Independence and Decisional Confidence in Administrative Adjudications. *The American Review of Public Administration*, 49(4), 395-410.

<https://doi.org/10.1177/0275074019829608>

Chishti, M., Bush-Joseph, K., & Putzel-Kavanaugh, C. (2024, January 19). *Biden at the three-year Mark: The most active immigration presidency yet is mired in border crisis narrative*. Migration Policy Institute. <https://www.migrationpolicy.org/article/biden-three-immigration-record>

Jain, A. (2019). Bureaucrats in robes: Immigration "judges" and the trappings of "courts."

Georgetown Immigration Law Review, 33(2), 263–235.

<https://ssrn.com/abstract=3400493>

Justia. (n.d.). “Merits hearings in deportation and removal proceedings”.

<https://www.justia.com/immigration/deportation-removal/merits-hearings/>

Kerwin, D., & Millet, E. (2023). The US Immigration Courts, Dumping Ground for the Nation’s Systemic Immigration Failures: The Causes, Composition, and Politically Difficult Solutions to the Court Backlog. *Journal on Migration and Human Security*, 11(2), 194-227. <https://doi.org/10.1177/23315024231175379>

Kim, C. Y. (2018). The president's immigration courts. *Emory Law Journal*, 68(1), 315–362.

Kim, C. Y., & Semet, A. (2020). An empirical study of political control over immigration adjudication. *Georgetown Law Journal*, 108(3), 579–648.

- McLeod, D. A., Natale, A. P., & Mapson, K. W. (Eds.). (2024). *Handbook of forensic social work: Theory, policy, and fields of practice* (online ed.). Oxford Academic.
<https://doi.org/10.1093/oso/9780197694732.001.0001>
- Misra, Tanvi. 2019. "DOJ changed hiring to promote restrictive immigration judges." Roll Call, October 29. <https://rollcall.com/2019/10/29/doj-changed-hiring-to-promote-restrictive-immigration-judges/>
- Misra, Tanvi. 2020a. "DOJ Memo Offered to Buy Out Immigration Board Members." Roll Call, May 27. <https://rollcall.com/2020/05/27/doj-memo-offered-to-buy-out-immigration-board-members/>.
- Misra, Tanvi. 2020b. "DOJ 'Reassigned' Career Members of Board of Immigration Appeals." Roll Call, June 9. <https://rollcall.com/2020/06/09/doj-reassigned-career-members-of-board-of-immigration-appeals/>.
- Moynihan, D. P., & Roberts, A. S. (2010). The Triumph of Loyalty Over Competence: The Bush Administration and the Exhaustion of the Politicized Presidency. *Public Administration Review*, 70(4), 572–581. <http://www.jstor.org/stable/40802234>
- Ramji-Nogales, J., Schoenholtz, A. I., & Schrag, P. G. (2007). Refugee Roulette: Disparities in Asylum Adjudication. *Stanford Law Review*, 60(2), 295–411.
<http://www.jstor.org/stable/40040412>
- Renshon, S. A., & Suedfeld, P. (2024). *The trump and Harris doctrines: Preservationism versus progressivism in the 2024 presidential election*. Springer Nature Switzerland Springer.
- Sessions, Jefferson III. 2017. "Memorandum for the Executive Office for Immigration Review on Renewing Our Commitment to the Timely and Efficient Adjudication of Immigration

Cases to Serve the National Interest.” December 5.

<https://www.justice.gov/eoir/file/1041196/download>.

Sessions, Jefferson III. 2018. “EOIR Performance Plan: Adjudicative Employees.” October 1.

<https://www.justice.gov/eoir/page/file/1358951/download>.

Slavin, D. & Marks, D. (2015). 3. You Be the Judge: Who Should Preside Over Immigration

Cases, Where, and How?. In D. Kanstroom & M. Lykes (Ed.), *The New Deportations*

Delirium: Interdisciplinary Responses (pp. 89-112). New York, USA: New York

University Press. <https://doi.org/10.18574/nyu/9781479833313.003.0008>

U.S. Congress. 2022. “Text - H.R. 6577 - 117th Congress (2021-2022): Real Courts, Rule of Law

Act of 2022.” December 20. [https://www.congress.gov/bill/117th-congress/house-](https://www.congress.gov/bill/117th-congress/house-bill/6577/text)

[bill/6577/text](https://www.congress.gov/bill/117th-congress/house-bill/6577/text)

U.S. Department of Justice, Executive Office for Immigration Review. (n.d.). “Board of

Immigration Appeals practice manual: Chapter 1-4 – The BIA.”

<https://www.justice.gov/eoir/reference-materials/bia/chapter-1/3>

U.S. Department of Justice, Executive Office for Immigration Review. 2017. “Executive Office

for Immigration Review: An agency guide.” December.

https://www.justice.gov/eoir/page/file/eoir_an_agency_guide/dl

U.S. Department of Justice, Executive Office for Immigration Review. 2022a. “What if You

Disagree with the Judge’s Decision? An Overview of the Appeals Process” January.

<https://www.justice.gov/eoir/page/file/1480826/dl>

U.S. Department of Justice, Executive Office for Immigration Review. 2022b. “FOIA Library.”

<https://www.justice.gov/eoir/foia-library-0>.

Wagner, E. (2021, October 26). *Biden admin. suspends immigration judge quotas, prompting similar requests elsewhere*. Government Executive.

<https://www.govexec.com/workforce/2021/10/biden-admin-suspends-immigration-judge-quotas-prompting-similar-requests-elsewhere/186396/>

Werlin, Beth. 2010. "RESCINDING AN IN ABSENTIA ORDER OF REMOVAL." Legal Action Center, Legal Immigration Council, March.

https://www.americanimmigrationcouncil.org/sites/default/files/practice_advisory/lac_pa_092104.pdf

Appendix

Appendix A

Logistic regression results for In Absentia Removal Order

	(1)	(2)	(3)
Post Policy	0.255*** (0.060)	0.363*** (0.084)	0.587** (0.199)
Legal Representation		3.139*** (0.101)	3.111*** (0.141)
Asylum Application		0.627*** (0.072)	0.630*** (0.072)
In Custody		4.669*** (0.324)	5.505*** (0.416)
Mexican or Central American		1.037*** (0.136)	1.041*** (0.137)
Chinese		1.170*** (0.202)	1.174*** (0.203)
English Speaker		-0.233* (0.111)	-0.235* (0.112)
Border Court		2.060*** (0.154)	2.068*** (0.155)
Judge: Latinx		-0.098 (0.266)	0.143 (0.274)
Judge: Male		-0.309* (0.139)	0.013 (0.182)
Judge: Republican		0.110 (0.136)	-0.031 (0.175)
Judge: Nonpartisan		-0.300* (0.135)	0.613*** (0.175)
Judge Background: Legal Aid Experience		-0.363** (0.140)	-0.383* (0.177)
Judge Background: EOIR/INS/DHS		0.224 (0.145)	0.443* (0.186)
Judge Background: Gov Prosecutor		-0.076 (0.114)	-0.311* (0.153)
Judge Background: Military		0.024 (0.177)	-0.215 (0.235)
Judge Background: Prior Judge		-0.029 (0.173)	-0.029 (0.175)
Judge Background: Private Practice		-0.037 (0.143)	-0.038 (0.144)
Judge Tenure (Years)		0.006 (0.006)	0.006 (0.006)

Judge Previous Caseload	0.000*** (0.000)	0.000*** (0.000)
Post Policy x Legal Representation		-0.055 (0.125)
Post Policy x In Custody		1.011** (0.365)
Post Policy x Latinx		-0.357 (0.458)
Post Policy x Male		-0.482** (0.152)
Post Policy x Republican		0.214 (0.189)
Post Policy x Nonpartisan		0.450** (0.151)
Post Policy x Legal Aid Experience		0.031 (0.148)
Post Policy x EOIR/INS/DHS		-0.319* (0.145)
Post Policy x Prosecutor		0.348* (0.142)
Post Policy x Military		0.354 (0.232)
N	204612	204612
Pseudo R2	0.00	0.32

Note: Baseline categories: Democratic judges and other nationality origins. Standard errors are clustered at the matching strata level. + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Appendix B*Logistic regression results for Merits Removal Order*

	(1)	(2)	(3)
Post Policy	0.405*** (0.037)	0.605*** (0.052)	-0.780* (0.317)
Legal Representation		1.045*** (0.123)	1.194*** (0.229)
Asylum Application		1.450*** (0.071)	1.459*** (0.071)
In Custody		3.545*** (0.122)	2.953*** (0.169)
Mexican or Central American		0.713*** (0.080)	0.716*** (0.081)
Chinese		0.254+ (0.140)	0.256+ (0.141)
English Speaker		0.175+ (0.094)	0.176+ (0.094)
Border Court		0.377*** (0.095)	0.375*** (0.095)
Judge: Latinx		0.034 (0.147)	0.141 (0.175)
Judge: Male		0.372*** (0.070)	0.420*** (0.089)
Judge: Republican		0.257** (0.078)	0.304** (0.110)
Judge: Nonpartisan		-0.127 (0.091)	-0.213* (0.108)
Judge Background: Legal Aid Experience		0.119 (0.091)	0.033 (0.117)
Judge Background: EOIR/INS/DHS		0.265*** (0.077)	0.374*** (0.085)
Judge Background: Gov Prosecutor		0.171** (0.066)	0.117 (0.087)
Judge Background: Military		-0.006 (0.102)	0.147 (0.138)
Judge Background: Prior Judge		0.046 (0.106)	0.046 (0.106)
Judge Background: Private Practice		0.201** (0.070)	0.201** (0.070)
Judge Tenure (Years)		-0.001 (0.004)	-0.001 (0.004)
Judge Previous Caseload		0.001*** (0.000)	0.001*** (0.000)

Post Policy x Legal Representation			0.288 (0.292)
Post Policy x In Custody			0.999*** (0.182)
Post Policy x Latinx			-0.224 (0.170)
Post Policy x Male			-0.093 (0.091)
Post Policy x Republican			-0.088 (0.119)
Post Policy x Nonpartisan			0.168 (0.104)
Post Policy x Legal Aid Experience			0.167 (0.103)
Post Policy x EOIR/INS/DHS			-0.212** (0.080)
Post Policy x Prosecutor			0.106 (0.088)
Post Policy x Military			-0.310* (0.144)
N	87817	87817	87817
Pseudo R2	0.00	0.38	0.38

*Note: Baseline categories: Democratic judges and other nationality origins. Standard errors are clustered at the matching strata level. + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$*