

Judge Steps Up Pressure on ICE to Fix Conditions in N.Y.C. Holding Cells

Judge Lewis A. Kaplan said he was intervening to protect migrants from being detained in potentially “unconstitutional and inhumane” circumstances at 26 Federal Plaza.



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By Luis Ferré-Sadurní

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A federal judge ordered the Trump administration on Wednesday to continue improving conditions for migrants being held in a Manhattan federal building, writing that he was intervening to protect detainees from potentially “unconstitutional and inhumane treatment.”

The judge, Lewis A. Kaplan, had already ordered the Immigration and Customs Enforcement agency on Aug. 12 to improve conditions at the building, 26 Federal Plaza, where migrants were being held in squalid and cramped conditions, according to a lawsuit filed by a migrant detained there.

On Wednesday, Judge Kaplan issued a longer-lasting order known as a preliminary injunction, requiring ICE to continue addressing the poor conditions, such as overcrowding and a lack of basic hygiene. While the injunction is not the final decision in the case, the judge said that the evidence was strong enough to merit a temporary order while the lawsuit moves toward a conclusion.

In his 84-page decision, Judge Kaplan provisionally certified the lawsuit, originally filed on Aug. 8 by a Peruvian immigrant, as a class action, expanding its scope to include any ICE detainee held at 26 Federal Plaza for 12 hours or longer.

He also said that the plaintiffs were “very likely to succeed on the merits of the claims” that the conditions in the holding cells violated the First and Fifth Amendments.

“We aspire to treat all Americans — and those among us — with humanity,” he wrote. “We are legally and morally bound to adhere to the Constitution and laws of the United States with respect to everyone within our borders.”

In a statement, Tricia McLaughlin, a spokeswoman for the Department of Homeland Security, the parent agency of ICE, said that any claims of “overcrowding or subprime conditions at ICE facilities are categorically false.”

“Despite a historic number of injunctions, D.H.S. is working rapidly overtime to remove these aliens from detention centers to their final destination — home,” she said.

The 10th-floor holding cells at 26 Federal Plaza have emerged as a defining flashpoint of President Trump’s immigration crackdown in New York City. The four cells, typically meant to hold a small number of people for just a few hours, became crowded this year as ICE accelerated arrests at nearby immigration courts. On some days, dozens of people were arrested, quickly outstripping the capacity of cells that were never intended to hold people overnight.

Migrants soon began complaining about being held in the cells for days, and even up to three weeks. They said they were forced to sleep on the floor or sitting upright, and were deprived of showers, sufficient medical care and legal representation. Some migrants said they had to contend with a stench emanating from shared toilets, which were in plain view of other detainees.

Video recorded by a migrant who sneaked a cellphone into the cells in July prompted Democratic lawmakers to escalate their demands to inspect the facilities, only to be denied access by ICE. Similar complaints about conditions

have emerged at detention facilities across the nation as ICE moves swiftly to detain and deport more people to fulfill Mr. Trump's campaign promise.

Judge Kaplan's order on Aug. 12 directed ICE to hold fewer people in the cells, allow migrants to call their lawyers, and provide medical and hygienic care. By reducing to 22 the number of detainees that ICE can hold at the Manhattan building, the order had the effect of forcing the immigration agency to slow down arrests in the city's immigration courts in recent weeks, according to immigration lawyers who monitor ICE activity.

In filings, ICE officials have said that they have begun to provide a bedding mat to each detainee, as well as cleaning the bathrooms three times a day and offering four meals a day, including bagels and "heater meal kits." Lawyers for the plaintiff have argued that some of the poor conditions, including overcrowding, have at times persisted despite the judge's August order.

The agency has argued that the cells are used only for short-term confinement and that most detainees are transferred to other detention facilities within 72 hours, offering some data to that effect in legal filings.

But Judge Kaplan wrote on Wednesday that the arguments and statistics the agency had provided were "unpersuasive" and that they "obscure more than they illuminate."

The judge concluded that the improvements made by ICE had resulted from his previous order in August, and that there were no assurances that those improvements would continue without the preliminary injunction he issued on Wednesday.

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