



# REPORT OF INVESTIGATION

<b>SUBJECT</b> William Cassidy (***)-**- <span style="background-color: #cccccc;">(b)(6); (b)(7)(C)</span> Appellate Immigration Judge Board of Immigration Appeals Atlanta, Georgia		<b>CASE NUMBER</b> 2021-005339
<b>OFFICE CONDUCTING INVESTIGATION</b> Miami Field Office		<b>DOJ COMPONENT</b> Executive Office for Immigration Review
<b>DISTRIBUTION</b> <input checked="" type="checkbox"/> Field Office MFO <input checked="" type="checkbox"/> AIGINV <input checked="" type="checkbox"/> Component EOIR <input type="checkbox"/> USA <input type="checkbox"/> Other	<b>STATUS</b> <input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED	
	<b>PREVIOUS REPORT SUBMITTED:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO  Date of Previous Report:	

## SYNOPSIS


The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Executive Office for Immigration Review (EOIR) based on a January 22, 2021 article in the San Francisco Chronicle, entitled “Bad Conduct, Leering ‘Jokes’ – Immigration Judges Stay on Bench.”<sup>1</sup> The article included references to allegations that Appellate Immigration Judge William Cassidy, Board of Immigration Appeals, Atlanta, Georgia, engaged in inappropriate behavior when he made sexually charged remarks on two separate occasions—first, to a party during a court proceeding and, second, to an unidentified female attorney who was reviewing a case file in EOIR office space. Specifically, the article reported that during an immigration proceeding involving a respondent seeking relief from deportation, Cassidy said to the respondent, “How long was I? Oh, men never answer that question.”<sup>2</sup> In the same article, it was reported that, on a separate occasion, Cassidy asked an unidentified female attorney who was reviewing a case file in EOIR office space, “Are you naturally blonde?” and “Are you basically telling me that the carpet doesn’t match the drapes?”

The OIG investigation substantiated the allegation that Cassidy made inappropriate, sexually charged remarks to a respondent during a court proceeding and when he asked a female attorney reviewing a case file if she was naturally blonde and subsequently asked, “Are you basically telling me that the carpet doesn’t match the drapes?”,

<sup>1</sup> (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

<sup>2</sup> Foreign-born individuals involved in immigration proceedings are referred to as respondents.

<b>DATE</b> March 3, 2022	<b>SIGNATURE</b> <span style="background-color: #cccccc;">(b)(6); (b)(7)(C)</span>
<b>PREPARED BY SPECIAL AGENT</b> <span style="background-color: #cccccc;">(b)(6); (b)(7)(C)</span>	
<b>DATE</b> March 3, 2022	<b>SIGNATURE</b>  Digitally signed by JAMES BOYERSMITH Date: 2022.03.04 07:27:51 -05'00'
<b>APPROVED BY SPECIAL AGENT IN CHARGE</b> James Boyersmith	
<b>APPROVED BY SPECIAL AGENT IN CHARGE</b> <span style="background-color: #cccccc;">(b)(6); (b)(7)(C)</span>	

in violation of the Department's zero tolerance policy on sexual harassment and ethical rules applicable to EOIR judges. Cassidy committed the misconduct when he was an immigration judge on the Atlanta Immigration Court and before he was appointed to the Board of Immigration Appeals.

On January 22, 2021, the San Francisco Chronicle published an article entitled, "Bad Conduct, Leering 'Jokes' – Immigration Judges Stay on Bench." According to the article, Cassidy made inappropriate comments to both a respondent during a court proceeding and an unidentified female attorney who was reviewing a case file in EOIR office space. The article indicated Cassidy's inappropriate behavior during the respondent's hearing was captured on a court audio recorder. The article did not reveal the name of or any other identifying information about the attorney who was reviewing the case file.

Concerning the first alleged incident, the OIG reviewed the EOIR's audio recording of a court proceeding involving Cassidy on [REDACTED] during which he made an inappropriate, sexually charged comment. The recording revealed that Cassidy told the respondent that he had been born [REDACTED] after the respondent stated that she had a daughter who had been born [REDACTED] and had [REDACTED]. The respondent, identified as [REDACTED], then asked Cassidy a question regarding his length at birth, and Cassidy responded, "How long was I? Oh, men never answer that question." The OIG contacted [REDACTED] attorney to request an interview of [REDACTED] and the attorney, **but the attorney never responded to the OIG's request.** The OIG does not have the authority to compel testimony from non-DOJ employees.

Concerning the second alleged incident, the OIG interviewed [REDACTED] a private attorney, who stated that, in 2012, Cassidy made inappropriate statements to her while she was reviewing a court-related file in EOIR office space. Specifically, the statements provided by [REDACTED] corroborated the allegations regarding inappropriate, sexually charged remarks that Cassidy made to an unidentified female attorney contained in the San Francisco Chronicle article.

During his compelled OIG interview, Cassidy admitted that he made the comment to [REDACTED] (i.e., "How long was I? Oh, men never answer that question.") during her [REDACTED] hearing, but denied the comment was inappropriate, stating that he was attempting to console the respondent. In addition, Cassidy admitted he asked an unidentified female attorney if she was naturally blonde, because she did not understand an earlier unspecified joke that he told. Cassidy denied asking the attorney, "Are you basically telling me the carpet doesn't match the drapes?" Cassidy did not recall the name of the attorney. Cassidy declined to submit to a voluntary OIG-administered polygraph examination regarding his assertions to the OIG.

The OIG has completed its investigation and is providing this report to the EOIR and the Department's Office of Professional Responsibility for appropriate action.

Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ personnel have committed misconduct. The Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701 (c)(1)(B); 5 C.F.R. § 1201.56(b)(1)(ii).

## DETAILS OF INVESTIGATION

### Predication

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Executive Office for Immigration Review (EOIR) based on a January 22, 2021 article in the San Francisco Chronicle, entitled “Bad Conduct, Leering ‘Jokes’ – Immigration Judges Stay on Bench.” The article included references to allegations that Appellate Immigration Judge William Cassidy, Board of Immigration Appeals, Atlanta, Georgia, engaged in inappropriate behavior when he made sexually charged remarks on two separate occasions—first, to a party during a court proceeding and, second, to an unidentified female attorney who was reviewing a case file in EOIR office space. Specifically, the article reported that during an immigration proceeding involving a respondent seeking relief from deportation, Cassidy said to the respondent, “How long was I? Oh, men never answer that question.” In the same article, it was reported that, on a separate occasion, Cassidy asked an unidentified female attorney who was reviewing a case file in EOIR office space, “Are you naturally blonde?” and “Are you basically telling me that the carpet doesn’t match the drapes?”

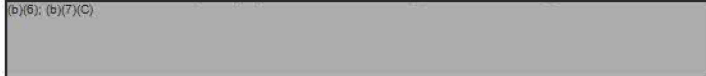
### Investigative Process

The OIG’s investigative efforts consisted of the following:

Interviews of the following personnel:

- William Cassidy, Appellate Immigration Judge, EOIR

- (b)(6); (b)(7)(C)



Reviews of the following:

- San Francisco Chronicle news article
- EOIR audio recording of a court proceeding

### Cassidy’s Inappropriate, Sexually Charged Comments

The information provided to the OIG alleged that, during an immigration court hearing with a respondent, Cassidy made an inappropriate, sexually charged comment during the proceeding and, on a separate occasion, Cassidy made inappropriate, sexually charged comments to an unidentified female attorney who was reviewing a case file in EOIR office space.

Attorney General Policy Memorandum #2015-04 – Prevention of Harassment in the Workplace, dated October 9, 2015, states in part:

**POLICY:** The Department of Justice will maintain a zero tolerance work environment that is free from harassment (including sexual harassment) based on sex, race, color, religion, national origin, gender identity, age, disability (physical or mental), genetic information, status as a parent, sexual orientation, marital status, political affiliation, or any other impermissible factor. . . .

Harassing conduct is defined as any unwelcome verbal or physical conduct that is based on any of the above-referenced characteristics when this conduct explicitly or implicitly affects an individual’s employment; unreasonably interferes with an

individual's work performance; or creates an intimidating, hostile, or offensive work environment.

To enforce this zero tolerance policy, the Department will treat harassing conduct as misconduct, even if it does not rise to the level of harassment actionable under Title VII of the Civil Rights Act of 1964, as amended. The Department will not wait for a pattern of offensive conduct to emerge before addressing claims of harassment. Rather, the Department will act before the harassing conduct is so pervasive and offensive as to constitute a hostile environment. Even where a single utterance of an ethnic, sexual, racial, or other offensive epithet may not be severe enough to constitute unlawful harassment in violation of Title VII, it is the Department's view that such conduct must be prevented whenever possible through awareness, robust policies and effective and appropriate follow-up, investigation, and enforcement of the zero tolerance policy.

The Ethics and Professionalism Guide for Immigration Judges, Part IX, Acting with Judicial Temperament and Professionalism, states, "An Immigration Judge should be patient, dignified, and courteous, and should act in a professional manner towards all litigants, witnesses, lawyers and other with whom the Immigration Judge deals in his or her official capacity, and should not, in the performance of official duties, by words or conduct, manifest improper bias or prejudice."

On January 22, 2021, the San Francisco Chronicle published an article entitled, "Bad Conduct, Leering 'Jokes' – Immigration Judges Stay on Bench." The article described comments Cassidy made during an immigration court proceeding and then additional remarks he made to an unidentified attorney reviewing a case file. According to the article, a respondent, in seeking relief from deportation, stated that she had had multiple miscarriages and also gave birth to a daughter who had been born premature and had special needs. The article stated that Cassidy ruled in the respondent's favor but made an inappropriate comment to the respondent. According to the article, as the respondent "sniffed audibly," Cassidy said that he also had been premature at birth and told the respondent his birth weight. The article stated that the respondent then asked Cassidy about his length at birth, to which Cassidy responded, "How long was I? Oh, men never answer that question." Cassidy's full comment ("How long was I? Oh, men never answer that question.") was an apparent reference to the length of one's penis. In addition, the article described a second incident in which Cassidy allegedly asked an unidentified female attorney who was reviewing a case file in EOIR office space, "Are you naturally blonde?" and then stated, "Are you basically telling me that the carpet doesn't match the drapes?" This expression is known to reference the color of a woman's pubic hair not matching the color of the hair on her head.

(b)(6); (b)(7)(C) told the OIG she was present for the court proceeding in (b)(6); (b)(7)(C) but did not recall the respondent. (b)(6); (b)(7)(C) told the OIG she was not present for the entirety of the hearing but did not recall hearing Cassidy make the comment, "How long was I? Oh, men never answer that question."

The OIG reviewed the audio recording from Cassidy's (b)(6); (b)(7)(C) court proceeding. The review of the audio recording corroborated the San Francisco Chronicle article's description that Cassidy made the inappropriate comment concerning penis length to a female respondent seeking relief from deportation during the hearing. The audio recording also corroborated that immediately before Cassidy's inappropriate comment, the female respondent appeared to be crying and told Cassidy about her (b)(6); (b)(7)(C) and her daughter who had been born (b)(6); (b)(7)(C) and had (b)(6); (b)(7)(C). The OIG contacted (b)(6); (b)(7)(C) attorney to request an interview of (b)(6); (b)(7)(C) and the



attorney, but the attorney never responded to the OIG's request. The OIG does not have the authority to compel testimony from non-DOJ employees.

(b)(6); (b)(7)(C) told the OIG that in 2012, she was reviewing a court-related case file when Cassidy walked behind her and told her a joke. (b)(6); (b)(7)(C) asserted she did not understand Cassidy's joke and he subsequently made the comment to her, "Are you really a blonde?" (b)(6); (b)(7)(C) recalled Cassidy then followed with the statement, "Oh, so are you saying the carpet doesn't match the drapes?" (b)(6); (b)(7)(C) recalled feeling embarrassed and could not believe a judge would say something like that. (b)(6); (b)(7)(C) stated Cassidy then walked away after making the comments and she had no more contact with him.

During his compelled OIG interview, Cassidy recalled during the (b)(6); (b)(7)(C) hearing, a respondent asked not to be deported because she had a (b)(6); (b)(7)(C) daughter who was born (b)(6); (b)(7)(C). Cassidy recalled telling the respondent he was also born (b)(6); (b)(7)(C) and weighed (b)(6); (b)(7)(C). Cassidy stated that the respondent then asked Cassidy how long he was, and he replied, "How long was I? Oh, men never answer that question." Cassidy admitted he made the comment; however, he told the OIG he did not think the comment was inappropriate. According to Cassidy, he was attempting to console the respondent because he was also born (b)(6); (b)(7)(C). Cassidy did not explain how his comment could have consoled the respondent, nor how it referred to anything other than the length of one's penis. Cassidy also admitted that, on a separate occasion, he asked a female attorney who was reviewing a court-related case file if she was naturally blonde because according to Cassidy, she did not understand an unspecified joke he had told her on three earlier occasions. Cassidy stated: "It was what I felt to be a light-hearted comment. Okay? They often say that someone has a blond moment, meaning I didn't get it. Just like someone would say, I had a senior moment." Cassidy denied asking the woman, "Are you basically telling me that the carpet doesn't match the drapes?" He asserted the comment regarding "the carpet doesn't match the drapes" was vulgar and he would not ask someone that question. Cassidy did not recall the name of the woman or any other identifying information about her. Cassidy declined to submit to a voluntary OIG-administered polygraph examination regarding the assertions he made to the OIG.

### *OIG's Conclusion*

The OIG investigation concluded that Cassidy made inappropriate, sexually charged comments on two separate occasions, to a respondent during a (b)(6); (b)(7)(C) court hearing and to a private attorney reviewing a file in EOIR office space in 2012, in violation of the Department's zero tolerance policy on sexual harassment and ethical rules applicable to EOIR judges. As to Cassidy's comment at the (b)(6); (b)(7)(C) hearing, the OIG based its conclusion on the court recording obtained from (b)(6); (b)(7)(C) immigration hearing, witness statements, and Cassidy's own admissions. Cassidy admitted he made the comment, "How long was I? Oh, men never answer that question," to a respondent during the (b)(6); (b)(7)(C) court proceeding. While Cassidy told the OIG that he did not believe his comment was inappropriate and instead was intended to console the respondent, the OIG does not accept Cassidy's characterization of the comment. Cassidy was unable to explain how his comment could have consoled the respondent, let alone how anyone could have understood his comment to refer to anything other than the length of one's penis. Any reasonable person would have understood the comment as an apparent reference to the length of a man's penis. In addition, Cassidy admitted to making the comment to a female attorney, who the OIG later identified as (b)(6); (b)(7)(C) regarding whether she was naturally blonde due to the female attorney not understanding his earlier, unspecified joke. While Cassidy denied asking (b)(6); (b)(7)(C) the follow-up question as to whether "the carpet doesn't match the drapes," the OIG found it was more likely than not that he made the follow-up comment. The OIG reached this conclusion based on (b)(6); (b)(7)(C) recollection of her encounter with him and the fact that the additional comment about the attorney's hair color ("Are you basically telling me that the carpet doesn't match the drapes?") related directly to the initial comment about her hair color ("Are you naturally blonde?") that Cassidy admitted making. We found that Cassidy engaged in misconduct that violated the Department's zero tolerance



policy on sexual harassment and Ethics and Professionalism Guide for Immigration Judges, Section IX, because the comments were unwelcome, offensive, based on sex, undignified, uncourteous, and unprofessional. Cassidy made the comments while acting in his official capacity, because the first comment was made to a litigant during a court hearing and the other comments were made to a private attorney reviewing a case file in EOIR office space.