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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION — RIVERSIDE

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16 FAOUR ABDALLAH FRAIHAT, et al.,

Case No 5:19-cv-01546JBG (SHKx)

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Plaintiffs,

BRIEF OF *AMICI CURIAE*
CASA DE PAZ, CHURCH
WORLD SERVICE – JERSEY
CITY, CLERGY & LAITY
UNITED FOR ECONOMIC
JUSTICE, DETENTION WATCH
NETWORK, EL REFUGIO,
FIRST FRIENDS OF NEW
JERSEY & NEW YORK, AND
FREEDOM FOR IMMIGRANTS
IN SUPPORT OF PLAINTIFFS'
EMERGENCY MOTION FOR
PRELIMINARY INJUNCTION

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, et al.

Defendants

Before The Honorable Jesus G.
Bernal
Hearing Date: April 13, 2020

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1 I. INTRODUCTION

2 We are in the midst of a growing public health crisis unlike any other we
3 have faced. In a few short months, the novel coronavirus COVID-19 has infected
4 more than one million people worldwide and killed thousands. There is no cure
5 and no vaccine. No one is immune. Everyone is at risk.

6 Our survival depends on the strength of our community. This pandemic has
7 no boundaries and no borders; it infects indiscriminately. To survive, communities
8 must protect all members, particularly those who are most vulnerable.

9 Immigrants in detention are some of the most vulnerable members of our
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1 for a mass release of vulnerable immigrants and indeed urge it.

2 Amici respectfully request that this Court grant the Plaintiffs' Emergency
3 Motion for Preliminary Injunction (Dkt. 81) to protect the most vulnerable
4 members of our society and our communities from the COVID threat.

5 II. INTERESTS OF *AMICI CURIAE*

6 Amici curiae Casa de Paz, Church World Service Jersey City Clergy &
7 Laity United for Economic Justice, Detention Watch Network, El Refugio, Fi
8 Friends of New Jersey & New York and Freedom for Immigrants belong to a
9 nationwide network of immigration advocacy organizations and providers of
10 community-based services for immigrants. As experts on immigration detention
11 and as frontline responders when persons are released from ICE custody, amici
12 have a direct interest in and offer a unique perspective on the threat that
13 COVID-19 poses to detained immigrants and the relief that Plaintiffs¹ seek.

14 Casa de Paz is a volunteer-run nonprofit that helps reunite immigrants
15 released from the Aurora ICE Detention Center in Aurora, Colorado with family or
16 close contacts across the United States. As part of that mission, Casa de Paz helps
17 arrange immigrants' travel and provides them with support until they reach their
18 final destinations. Casa de Paz is prepared to help immigrants in the event of a
19 mass release and has implemented COVID-19-specific protocols that protect the
20 safety of immigrants and volunteers.

21 Church World Service – Jersey City (“CWS”) is a nonprofit organization
22 that helps integrate immigrants to communities following their release from ICE
23 custody. CWS's goal is to ensure that immigrants become self-sufficient. To that
24 end, CWS provides temporary and permanent housing resources, helps immigrants
25 find landlords, and provides other support.

1 Clergy & Laity United for Economic Justice (“CLUE Justice”) is a
2 interfaithcollaborativethat mobilizes volunteers to visit immigrants detained in
3 Southern California and connect immigrants with post-release support and case
4 management service. CLUE Justice is preparing to accommodate a mass release
5 as a result of COVID19 by working withreligious groups andpartner
6 organizations to convert unused space ~~into~~ and supportive housing.

7 Detention Watch Network (“DWN”) is a grassroots advocacy organization
8 thatcoordinates a national network of members—from individual activists to direct
9 service providers—to advocate against immigration detention. DWN has put
10 together a “toolkit” to help member organizations reintegrate individuals released
11 from detention as a result of COVID 8 (or)32Fr

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diseases and protect those who are particularly vulnerable. To preserve public health resources, the public interest also favors preventative measures that will alleviate the burden on emergency care. See Golden Gate Ass'n v. Aave me

1 develop serious or fatal cases. At 2. The broader community will also suffer as
2 local health resources become overwhelmed at 7. Given that ICE detention
3 centers have already reported over a dozen COVID-19 cases, amici urge this Court
4 take immediate action to require ICE to implement proper COVID

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- x Provide face masks to individuals who show symptoms of COVID
- x Plan to prioritize for treatment individuals who are particularly at risk from COVID-19.
- x Create a plan for operating at surge capacity with staff shortages.
- x Identify alternatives to in-person court appearances.

As the risk from COVID19 continues to grow, ICE has refused to adopt

1 Strike for Soapsupra.

2 Because ICE's lack of action has put the health of immigrants in detention
3 and the general public at risk, the public interest favors immediate injunctive relief.
4 Providing individuals in detention with protection from communicable diseases
5 safeguards not only their health, but also the health of the community at large. See
6 e.g., *Hoffer v. Jones*, 290 F. Supp. 3d 1292, 1064 (N.D. Fla. 2017) (granting a
7 preliminary injunction ordering state to provide individuals in detention with
8 treatment for Hepatitis C virus); *Hernandez v. Cty. of Monterey*, 110 F. Supp. 3d
9 929, 958 (N.D. Cal. 2015) (granting preliminary injunction ordering county to take
10 steps to screen and treat individuals in detention for tuberculosis). At minimum,
11 the public interest favors screening individuals in detention for communicable
12 diseases and providing them with adequate treatment for these diseases. See
13 *Hernandez*, 110 F. Supp. 3d at 958. Yet, ICE is not even implementing minimum
14 preventative safeguards to protect immigrants in detention or the public from
15 COVID-19. Amici join Plaintiffs in urging this Court to order that ICE reevaluate
16 health protocol in its detention centers to ensure compliance with all of the CDC's
17 recommendations for congregate settings.

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F. Supp. 3d —, 2020 WL 1502864, at *6 (C.D. Cal. Mar. 27, 2020) (reducing the
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1 organizations from coast to coast, including amici having discussions and
2 developing protocols to provide post-release services in a way that protects the
3 health of immigrants, volunteers, and the broader community during the COVID-
4 crisis.¹¹ Recognizing that the release of immigrants vulnerable to COVID
5 necessary for the protection of everyone in our communities, nonprofit
6 organizations like amici are committed to delivering post-release services in a way
7 that continues to serve the public interest.

8 a. Nonprofit Organizations Like *Amici* Support
9 Immigrants' Integration Into Their Communities.

10 Amici and their partner organizations investment in building relationships
11 with immigrants begins when they are still in ICE detention. Amici FFI and First
12 Friends, for instance, have built volunteer visitation networks and maintain national
13 hotlines for immigrants in detention to report on conditions they face. FFI
14 coordinates community volunteer visits in over 30 states, hundreds of detention
15 facilities. FFI and First Friends record the information received to facilitate further
16 community involvement and local and national advocacy efforts. These early
17 contacts ensure that immigrants in detention and community members
18 foundation for mutual support.

19 These relationships give organizations insight into release policies at
20 detention centers, so that volunteers can be ready to provide immediate support.
21 Amici First Friends, El Refugio, and Casa de Paz, for instance, hear directly from
22 local detention centers about whether and when individuals will be released. Casa
23 de Paz even has volunteers present at the Aurora ICE Detention Facility every
24 weekday at five o'clock P.M. to meet with any released immigrants.

25
26 ¹¹ While amici and their sister organizations stand at the ready to assist immigrants
27 upon release, nothing in this brief should be construed as diminishing ICE's own
28 responsibility to ensure the safety of immigrants in its custody, or as endorsing the
notion that ICE can transfer responsibility for mitigating the effects of its own
negligence and misconduct to private organizations.

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In the vast majority of cases, immigrants released from detention return to live with family or other loved ones in the United States while legal proceedings play out. In 2019, for example, Casa de Esperanza assisted 1,179 immigrants who were released from ICE detention facilities. (See Exhibit 2) ALJ's Order on Remedy (19-cv-71)

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1 toolkit, DWN helps organizations assess their resources and develop targeted
2 strategies to help immigrants released from ICE custody integrate in their
3 communities. Id at 13-14. DWN's materials offer best practices in developing a
4 COVID-19 community release response plan. And DWN instructs its members
5 to pool knowledge and resources—namely, basic prevention supplies, emergency
6 housing opportunities, medical assistance, and community financial support
7 funds—to be prepared to support detained people immediately upon release. Id
8 The toolkit also contains an array of COVID-19 specific resources to help DWN
9 members re—S (f)25gy

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1 of experience with mass release scenarios, they are preparing because they realize
2 that mass release would be in immigrants' and the public's best interest.

3 2. ICE's Objections to Releasing Immigrants From Detention
4 Are Unsubstantiated.

5 ICE claims that curtailing "flight risk" is a compelling public interest that
6 justifies keeping people with risk factors for COVID-19 in unsafe facilities. Defs.'
7 Opp. to Pls.' Emergency Mot. for Prelim. Inj. ("ICE Opp.") 31-32, Dkt. 95. This
8 is not the first time ICE has suggested that migrants will abscond the moment they
9 are released¹², but, again, ICE does not offer any evidence that immigrants are
10 unlikely to show up for court dates if not detained. See ICE Opp. at 31-32. ICE's
11 presumption is not borne out by data by amici's experience.

12 Immigrants who are not in detention overwhelmingly show up for court.
13 According to a 2019 study by the American Immigration Council, in the past
14 decade, the Government filed 1.97 million immigration court cases against
15 undetained individuals. Am. Immigration Council, Immigrants and Families
16 Appear in Court: Setting the Record Straight (July 30, 2019), available at
17 <https://tinyurl.com/s376vc7>. There was at least one hearing in 1.8 million of
18 cases. Id. The Council found that in about 1.5 million cases, the respondent
19 showed up to every hearing—adding up to an overall appearance rate of 86 percent.
20 Id. The data are even more impressive when whole families are released from
21 detention; they had an 86 percent appearance rate from 2001 to 2016. Id.
22 Undetained immigrants' appearance rate jumps to 97 percent when they are
23 represented by counsel. In the year 2018, "in absentia" removal orders were
24 issued in just four percent (46,051 of 1,108,632) of pending cases. Id. 6 As the

25 ¹² See, e.g. Resps.' Opp. to Pet. for Writ of Habeas Corpus & Mot. for TRO and/or
26 Prelim. Inj. at 32, Thakker v. DoJ No. 1:CV-200480 (M.D. Pa. Mar. 29, 2020)
27 ECF No. 35 ("preventing aliens from absconding and ensuring that they appear for
28 removal proceedings is a legitimate governmental objective").

¹³ See, e.g. Coroneo, 2020 WL 1487274, at *8 (noting that "[t]he Government has
offered no evidence that Petitioners pose a risk of flight").

1 in detention still overwhelmingly make their court dates.

2 Public-interest organizations, including amici here, help ensure that
3 immigrants understand their legal obligations and show up to court. Casa de Paz,
4 El Refugio, First Friends, CWS, CLUE Justice, and their sister organizations
5 around the country assist immigrants virtually from the minute they are released
6 from ICE detention—helping them connect with family, find housing, and integrate
7 into their communities. In addition to meeting material needs, these groups educate
8 immigrants about the legal process, drawing on their extensive knowledge of the
9 obstacles immigrants face in navigating the legal process; provide guidance
10 to immigrants and help connect them with legal aid groups to provide pro bono
11 representation when possible. By way of example:

- 12 x DWN has helped prepare a number of resources for immigrants,
13 community organizers, and lawyers alike offering guidance on how to
14 handle the legal challenges of someone facing deportation, e.g.
15 DWN et al, *Deportation 101* (May 2010), available at
16 <https://tinyurl.com/vygxq4g>.
- 17 x Casa de Paz dispatches volunteers to the Aurora, Colorado ICE facility
18 five days per week to answer released immigrants' questions.
- 19 x FFI educates immigrants about legal requirements and offers post-
20 release case management services.
- 21 x CWS offers broad case management services to help immigrants gain
22 permanent status in the United States. CWS helps immigrants
23 properly complete all required paperwork, encourages them to attend
24 all court hearings, and can refer them to pro se assistance programs.
- 25 x CLUE Justice not only connects immigrants with pro bono attorneys,
26 but also coordinates for volunteers to accompany immigrants to their
27 hearings.

28 These are merely illustrative of the kinds of services that community-based
organizations offer to immigrants around the country.

ICE's additional concern that immigrants will present a "danger" to
communities if released from detention is also unsubstantiated. *Opp. Eat 27, 31.*

1 In fact, this argument has been proven to be a myth.

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1 Dated: April9, 2020
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Respectfully submitted,

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