



## INTRODUCTION

1. In June 2018, Plaintiff Jane Doe<sup>1</sup> (“Plaintiff”) traveled to the United States with her 12-year old daughter, “A.M.,” in an effort to escape (1) grievous, repeated violence visited upon Plaintiff by an individual closely associated with a Honduran police force, and (2) persistent threats of violence and death made against Plaintiff and her daughter by a powerful gang that is connected to and protected by officials in the Honduran government and police force.

2. Shortly after crossing the border into the United States, Plaintiff and A.M. were apprehended and detained by the U.S. Customs and Border Protection (“CBP”), who subsequently turned them over to U.S. Immigration and Customs Enforcement (“ICE”). Thereafter, in accordance with the policies, practices, and statements of the White House and the

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<sup>1</sup> Plaintiff requests that this Court permit her to proceed pseudonymously in light of the risk to her personal safety that would result from the disclosure of her true identity. Although parties to a lawsuit are generally required to proceed under their real names, *see* Fed. R. Civ. P. 10(a), parties have been permitted to proceed under fictitious names where the circumstances warrant a departure from this general rule. *See, e.g., Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973); *Doe v. Deschamps*, 64 F.R.D. 652, 653 (D. Mont. 1974). It is within the court’s discretion to allow a plaintiff to sue pseudonymously. *Doe v. Hallock*, 119 F.R.D. 640 (S.D. Miss. 1987); *see Doe v. BlueCross & Blue Shield of Rhode Island*, 794 F. Supp. 72 (D.R.I. 1992). “The decision [as to whether a party may sue anonymously] requires a balancing of considerations calling for maintenance of a party’s privacy against the customary and constitutionally-embedded presumption of openness in judicial proceedings.” *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981) (permitting plaintiffs to proceed anonymously in light of threats and hostility to plaintiffs). Courts have carved out an exception to the rule requiring public disclosure where the parties have a strong interest in proceeding anonymously. *Doe v. Blue Cross & Blue Shield of Rhode Island*, 794 F. Supp. 72 (D.R.I. 1992). Cases of this type commonly involve “abortion, mental illness, *personal safety*, homosexuality, transsexuality and illegitimate or abandoned children in welfare cases.” *Id.* at 74 (emphasis added). These cases usually involve “the presence of some social stigma or the threat of physical harm to the plaintiffs attaching to disclosure of their identities to the public record.” *Id.* Here, Plaintiff fears retribution from her ex-boyfriend and the gangs that caused her to flee Honduras should they become aware that she is bringing this action. In light of the credible and serious threats to her life and the life and wellbeing of her daughter, Plaintiff requests that she be allowed to proceed under the pseudonym Jane Doe.

current administration, the U.S. Attorney General, the Department of Homeland Security (“DHS”), and ICE, Defendants forcibly separated Plaintiff from A.M., who is now being kept in a children’s detention facility in Florida. As of the date hereof, Plaintiff has been separated from her minor daughter for nearly one month. This ongoing, forced separation has been and continues to be extremely distressing and traumatizing to Plaintiff and her daughter.

3. Throughout this entire process, Plaintiff’s chief concern has been to reunite with her daughter and to ensure her daughter’s safety. During her detention, Defendants have played upon this fear, repeatedly taunting Plaintiff about her daughter’s whereabouts and her ability to be reunited with A.M. Agents even threatened to deport *her while keeping A.M. in the United States* as punishment for crossing the border “illegally”—despite the fact that ICE has been enjoined from doing so by a United States District Court. *See Ms. L. v. U.S. Immigration & Customs Enforcement*, No. 18-cv-0428 DMS (MDD), Order Granting Plaintiffs’ Motion for Classwide Preliminary Injunction, dated June 26, 2018.

4. ICE guards have also been verbally abusive to Plaintiff, repeatedly yelling at her and trying to humiliate her.

5. Plaintiff’s daughter has fared no better. In fact, the separation has been so detrimental to A.M. that she has been inconsolable, leading her social worker and custodian to engage a therapist to try to help ameliorate short- and long-term impacts of her obvious trauma.

6. Shortly after being detained, Plaintiff expressed a fear of returning to Honduras. In response, she was granted a credible fear interview with Defendant Manning, an Asylum Officer. However, the interview was substantively and procedurally deficient. Among other things, Plaintiff did not receive an adequate explanation of the proceedings and did not fully understand their import. Additionally, the written record of the interview reveals a sloppy,

incomplete process during which Plaintiff was prevented from fully explaining her case—including the crucial fact that her tormentors are closely tied to Honduran government and police officials, and that they can and have abused her and threatened her and A.M. with impunity. Additionally, Defendant Manning repeatedly mischaracterized Plaintiff’s answers and recorded them improperly.

7. As a result of this patently deficient interview, Defendant Manning improperly and incorrectly determined that Plaintiff was ineligible for asylum because she had no credible fear of a cognizable harm in Honduras that would warrant relief under federal asylum laws.

8. Defendant Manning asked Plaintiff over the phone to waive her right to have this determination reviewed by an immigration judge. Plaintiff did not understand the ramifications of his question and, in light of the harrowing experiences surrounding her detention and the devastating impact of the forced separation on her daughter, she orally indicated that she did not intend to appeal. At the time, she believed that it was the only way she could ensure that she would be timely reunited with her daughter.

9. However, when she returned to the detention center and other detainees explained that a waiver of review by an immigration judge could lead to her removal without further process, she immediately wrote a letter in which she requested that an immigration judge review her eligibility for asylum, including the negative credible fear finding (the “IJ Request”). Plaintiff put the IJ Request in an envelope addressed to “ICE” and, at the direction of ICE guards, placed the envelope in an onsite mailbox for ICE.

10. A day or so after Plaintiff made the IJ request to Defendant John Doe, Defendant John Doe, an ICE Officer at Port Isabel Detention Center (“PIDC”), approached Plaintiff with a piece of paper (now known to be the Record of Negative Credible Fear Finding and Request for

Review by Immigration Judge Form) and instructed her to check a box and sign the document, threatening to report her if she did not do so.

11. Plaintiff, exhausted by her detainment, intimidated by the actions of the Defendants and the other ICE Officers, terrified by her long-term traumatic harm caused by the involuntary separation from her daughter, and without understanding what she was being instructed to do, signed the English-language document (which she could not read) that purported to waive her rights to have an immigration judge review the negative credible fear finding.

12. Since then, ICE Officers have indicated that they are coordinating with the Honduran consulate to arrange for the immediate removal of Plaintiff and her daughter. They have indicated that they will not honor Plaintiff's IJ Request because she signed a form that purports to waive the right to review by the immigration judge, despite the fact that Defendants know that Plaintiff signed the form under duress and without understanding the import of—or even the words in—the document.

13. Once Plaintiff engaged counsel, counsel also wrote two letters and left multiple messages for ICE officials reiterating Plaintiff's request for IJ review. Despite these efforts, Plaintiff's counsel has received no response.

14. Defendants' actions, including repeated intimidation tactics and the unlawful separation of Plaintiff from her daughter, have deprived Plaintiff of her right to Due Process, as well as her statutory rights to make an asylum claim in the face of persecution.

15. Defendants' actions were also in violation of the APA and established common law rights available to Plaintiff.

16. The threatened imminent removal of Plaintiff and her daughter requires immediate injunctive relief. She is likely to succeed on the merits of her claims and, in the absence of injunctive relief, she would suffer irreparable harm should she be removed. Furthermore, the balance of the equities tip in favor of granting the requested injunction, and granting the injunction is in the public interest.

### **JURISDICTION AND VENUE**

17. This case arises under the First and Fifth Amendments to the United States Constitution, federal asylum statutes, and the Administrative Procedure Act (“APA”), 5 U.S.C. § 701.

18. Jurisdiction is proper under 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 2241 (habeas jurisdiction); and Art. I., § 9, Cl. 2 of the United States Constitution (“Suspension Clause”). Plaintiff and her daughter are in custody for purposes of habeas jurisdiction.

19. The claims against both the government and private defendants arise out of actions taken by Defendants in connection with Plaintiffs’ pursuit of a benefit under Title 8, of the United States Code—11 the Immigration and Nationality Act (“INA”).

20. Venue is proper under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to this action occurred in this District.

### **PARTIES**

21. Plaintiff Jane Doe fled her native Honduras to escape the repeated, extreme violence to which she had been subjected by an individual associated with a Honduran police force and the credible threats of violence made against her and her 12-year old daughter, A.M., by a gang associated with and protected by the Honduran government and police force. Upon entering the United States, Plaintiff and her daughter were apprehended and detained by CBP

and forcibly separated. Plaintiff is currently detained at the PIDC in Los Fresnos, Texas. ICE improperly issued a final order of removal against her, and she is in imminent danger of being removed.

22. The U.S. Department of Homeland Security (“DHS”) is an agency of the United States that is charged with implementing the laws passed by Congress. *See* Section 102 of the Homeland Security Act of 2002. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant DHS may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to the U.S. Department of Homeland Security, c/o Office of the General Counsel, 245 Murray Lane, SW, Mail Stop 0485, Washington, DC 20528-0485.

23. Defendant Kirstjen Nielsen is sued in her official capacity as the Secretary of the DHS. In this capacity, she directs each of the component agencies within DHS, including United States Immigration and Customs Enforcement (“ICE”). Defendant Nielsen is responsible for the administration of immigration laws and policies pursuant to 8 U.S.C. § 1103, including those laws and policies regarding the detention of migrant families and the forced separation of families pursuant to the zero-tolerance policy. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant Nielsen may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to the The Honorable Kirstjen M. Nielsen, Secretary of Homeland Security, Washington, DC 20528.

24. The U.S. Citizenship and Immigration Services (“USCIS”) is an agency of the U.S., and is a sub-agency to DHS. It is responsible for the adjudication of applications for

benefits under the INA, including the completion of Form I-869, Record of Negative Credible Fear Finding and Request for Review by Immigration Judge. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant ICE may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to U.S. Citizenship and Immigration Services, L. Frank Cissna, Director USCIS, 111 Massachusetts Avenue, Headquarters Building, Washington, DC 20529.

25. The U.S. Immigration and Customs Enforcement (“ICE”) is an agency of the U.S., and is a sub-agency to DHS. It is responsible for the administering the nation’s immigration system. ICE is currently detaining Plaintiff. ICE’s activities in Southeast Texas are managed from its field office in Houston, Texas. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant USCIS may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to U.S. Immigration and Customs Enforcement, c/o Houston ICE Office of Chief Counsel, 126 Northpoint Drive, Room 2020, Houston, TX 77060.

26. The U.S. Customs and Border Protection (“CBP”) is an agency of the U.S., and is a sub-agency to DHS. It is responsible for administering the nation’s immigration laws. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant CBP may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to U.S. Customs and Border Protection, Kevin K. McAleenan, Commissioner, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Ave., NW, Washington, DC 20229.



27. Defendant Ronald D. Vitiello is the Deputy Director and Acting Director for U.S. Immigration and Customs Enforcement. In this capacity Defendant Vitiello directs the administration of ICE's detention policies and operations, including those policies and operations regarding the detention of migrant families. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant Vitiello may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to Ronald D. Vitiello, Deputy Director and Acting Director, U.S. Immigration and Customs Enforcement, 500 12<sup>th</sup> St., SW, Washington, D.C. 20536.

28. Defendant Matthew T. Albence is the Executive Associate Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement (ICE). In this capacity, Defendant Albence oversees, directs, and coordinates policies related to ICE's Enforcement and Removal Operations ("ERO"), including those policies and operations regarding the detention and separation of migrant families. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant Albence may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to Matthew Albence, Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, 500 12th St., SW, Washington, D.C. 20536.

29. Defendant Brian Manning is an Asylum Officer employed by USCIS in its Houston, Texas field office. In this capacity, Defendant Manning conducted a legally deficient credible fear interview of Plaintiff, and as a result, improperly determined that Plaintiff has no "credible fear" of cognizable harm in Honduras and that Plaintiff is therefore ineligible for

asylum (the “negative credible fear finding”). Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant Manning may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to Brian Manning, c/o USCIS, Houston Asylum Office, P.O. Box 670626, Houston, Texas, 77267.

30. Defendants John Does are ICE officers who have forcibly separated Plaintiff from her daughter, deprived Plaintiff of her rights to be in contact with her daughter, unreasonably detained Plaintiff, and/or tormented, abused, and lied to Plaintiff during her time in the custody of the United States government. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant USCIS may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to U.S. Immigration and Customs Enforcement, c/o Houston ICE Office of Chief Counsel, 126 Northpoint Drive, Room 2020, Houston, TX 77060.

31. Defendants John Does are USCIS officers who have forcibly separated Plaintiff from her daughter, deprived Plaintiff of her rights to be in contact with her daughter, unreasonably detained Plaintiff, and/or tormented, abused, and lied to Plaintiff during her time in the custody of the United States government. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant ICE may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to U.S. Citizenship and Immigration Services, L. Frank Cissna, Director USCIS, 111 Massachusetts Avenue, Headquarters Building, Washington, DC 20529.

32. Defendants John Does are CBP officers who have forcibly separated Plaintiff from her daughter, deprived Plaintiff of her rights to be in contact with her daughter, unreasonably detained Plaintiff, and/or tormented, abused, and lied to Plaintiff during her time in the custody of the United States government. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant CBP may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to U.S. Customs and Border Protection, Kevin K. McAleenan, Commissioner, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Ave., NW, Washington, DC 20229.

33. Defendant Jefferson Beauregard Sessions III is the Attorney General of the United States. On or about May 7, 2018, Defendant Sessions adopted and/or announced, and now oversees the enforcement of, the “zero tolerance policy,” pursuant to which all adults entering the United States illegally are subject to criminal prosecution and are separated from their accompanying minor children.<sup>2</sup> Pursuant to this policy, thousands of migrant children have been separated from their parents, including A.M., Plaintiff’s 12-year old daughter. Defendant Sessions further has responsibility for the administration of the immigration laws pursuant to 8 U.S.C. § 1103, oversees the Executive Office of Immigration Review, is empowered to grant asylum or other relief, and is a legal custodian of the Plaintiff. Pursuant to Federal Rules of Civil Procedure 4(i)(1)(A) and 4(i)(2), Defendant Sessions may be served by (i) delivering a copy of the summons and the Complaint to the United States attorney for the Southern District of Texas, and (ii) sending the complaint by registered or certified mail to Jefferson B. Sessions, III, US

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<sup>2</sup> See U.S. Att’y. Gen., Attorney General Sessions Delivers Remarks Discussing the Immigration Enforcement Actions of the Trump Administration (May 7, 2018), <https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions> (last visited July 11, 2018).

Attorney General, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

### STATEMENT OF FACTS<sup>3</sup>

#### **I. Plaintiff's history**

##### **A. Persecution and Torture in Honduras**

##### **1. Persecution and Torture by Former Police Officer**

34. Plaintiff came to the United States from El Negrito Yoro, Honduras, after suffering continuous persecution in her native country of Honduras. Plaintiff traveled to and entered the United States with her 12-year old daughter, A.M. (A.M. is Plaintiff's child with her former common-law husband). Decl. ¶ 1.

35. For approximately two years before she fled to the United States, Plaintiff dated an individual referred to in this Complaint as "Mr. L." Plaintiff and Mr. L. lived together, but were not married. Mr. L. served on a Honduran police force in a town near El Negrito Yoro. Although he has now left the police force, he maintains close relationships with many officers on the police force in the area, including in El Negrito Yoro. Decl. ¶ 2.

36. During the course of the relationship, Mr. L. was abusive toward Plaintiff. The abuse escalated in late 2017, when Plaintiff learned that Mr. L. had been unfaithful and she attempted to end the relationship. Decl. ¶ 3.

37. In response to Plaintiff's attempts to end the relationship, Mr. L. became extremely emotionally and physically abusive to Plaintiff. Mr. L. would hit, punch, and choke

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<sup>3</sup> The facts in this section are drawn from the Declaration of Jane Doe, attached to and incorporated herein as Exhibit "A" (hereinafter cited as "Decl. ¶ \_\_"). Exhibit "A" contains both the Spanish language original Declaration, an English language translation and a certificate of translation.

Plaintiff on a regular basis. At one point, Mr. L., inebriated and under the influence of drugs, attempted to stab Plaintiff in the stomach with a screwdriver. Decl. ¶ 4.

38. Additionally, on approximately six or seven occasions, Mr. L. forcibly raped Plaintiff when she would reject his advances. The situation escalated when Mr. L. choked Plaintiff to the point where she could not breathe. While choking Plaintiff, Mr. L. told Plaintiff that he would kill her. Decl. ¶ 5.

39. Plaintiff arranged for her daughter, A.M, to stay with her mother to prevent her from witnessing the abuse. Plaintiff was therefore limited to spending time with her daughter during the day. Decl. ¶ 6.

40. Plaintiff felt unable to seek protection from the police (*e.g.*, by filing a police report) because Mr. L. had previously worked as a police officer in a town near El Negrito Yoro and maintained close relationships with many of the police officers in and around El Negrito Yoro. Plaintiff feared that if she reported the abuse, the police officers would not punish Mr. L., and on the contrary, the police officers would alert Mr. L. that Plaintiff was attempting to report him. Therefore, Plaintiff feared that notifying the police about her abuse at the hands of Mr. L. would only exacerbate her persecution and torture. Decl. ¶ 7.

41. She also feared that the officers would not take her complaints seriously because she is a divorced single mother, a status which is highly stigmatized in Honduras. Decl. ¶ 8.

**2. Persecution by the Maras Gang, which is closely associated with Honduran officials**

42. Plaintiff owned a small food store in El Negrito Yoro. Decl. ¶ 9.

43. Single women—or women who are not in relationships with men who will protect them—are very vulnerable in Honduras, particularly when they have children. Gangs often target single mothers that they know are not “protected” by the presence of a man. Decl. ¶ 10.

44. Mr. L. would often leave for various periods of time throughout his relationship with Plaintiff. During his absences, and after she attempted to end the relationship with Mr. L., incurring his wrath, a gang understood by Plaintiff to be the Maras Gang (the “Maras Gang”) regularly threatened and harassed Plaintiff because she was a single and unprotected mother. Decl. ¶ 11.

45. The Maras Gang began to extort Plaintiff for any money she had available in the store. Decl. ¶ 12.

46. After taking all her money, the Maras Gang insisted that Plaintiff store guns and drugs in her store for them. Decl. ¶ 13.

47. When Plaintiff refused, the Maras Gang told Plaintiff that they would kill her and that they knew where her daughter went to school and they would kill her daughter too. Decl. ¶ 14.

48. Plaintiff did not report the incidents with the Maras Gang to the local police because the gang was known to bribe, pay off, collude with, and receive protection from the police. She therefore reasonably feared that reporting the action would attract the attention of the Maras Gang. Decl. ¶ 15.

**B. Escape to the United States; Detention and Forced Separation from A.M.**

49. Facing repeated assaults from Mr. L. and constant and credible threats to her own life and A.M.’s life from both Mr. L. and the Maras Gang, Plaintiff fled with her daughter from Honduras on or about May 20, 2018. (Plaintiff considered fleeing to another city in Honduras, but decided to leave Honduras altogether due to the wide reach of the Maras Gang in the country.) Decl. ¶ 16.

50. Plaintiff and her daughter crossed through Guatemala and Mexico by bus. She arrived in McAllen on or about June 8, 2018, after crossing the Rio Grande. Within a few

minutes of crossing the border, Plaintiff and her daughter surrendered to CBP and were taken to one of the initial intake processing centers operated by Defendants, known as a *hielera* (“Ice Box”) for its frigid temperatures. Decl. ¶ 17.

51. The guards forcibly separated Plaintiff from her daughter in the Ice Box, and told Plaintiff that she should have not come to the country with her child. When they realized they were going to be separated, A.M. and Plaintiff screamed and begged the officers to keep them together. However, Defendants John Doe forcibly separated Plaintiff and A.M. Decl. ¶ 18.

52. During her time in the Ice Box, Plaintiff was repeatedly yelled at and threatened by detention officers who told her that she would be punished for coming to the country illegally. Decl. ¶ 19.

53. Specifically, Plaintiff was told that she would be deported by herself, *while her daughter would remain in the United States without her*. Decl. ¶ 20.

54. At the time of separation, detention officers told Plaintiff that she would be able to see her daughter again in 48 hours—but this was a lie. Plaintiff has not seen her daughter even once since they were forcibly separated. Decl. ¶ 21.

55. Plaintiff was then taken to an immigration detention facility, known as *La Perrera* (the “Dog Cage”), because of its resemblance to a dog kennel. Decl. ¶ 22.

56. Knowing that some children were detained in the Dog Cage and hoping that her daughter was close by, Plaintiff, sobbing hysterically, repeatedly asked CBP officers to give her “five minutes” with her child to let her know that everything would be OK. Decl. ¶ 23.

57. In response, the guards screamed at Plaintiff to be quiet, again yelled at her about coming into the country “illegally” and threatened that she would be deported without her child

as punishment for her actions. They did not reunite Plaintiff with A.M., who was sent thousands of miles away to a child detention facility in Florida. Decl. ¶ 24.

58. After three days in the Dog Cage, Plaintiff was taken to the federal courthouse in Brownsville, Texas, on June 9, 2018, where she appeared before a Magistrate Judge concerning an alleged violation of Title 8, United States Code, Section 1325(a)(1). Decl. ¶ 25. Under extreme emotional distress, hopeful for a speedy reunion with A.M., and not fully understanding the ramifications—Plaintiff pled guilty to the charge.

59. At the courthouse, ICE Officers promised Plaintiff that she would be reunited with her daughter at PIDC. Decl. ¶ 26.

60. Plaintiff's newfound sense of hope quickly descended into further grief as Plaintiff realized that the officer lied to her, and she was detained in the PIDC without any contact with her daughter for ten days. Decl. ¶ 27.

61. After ten long days of detention with no knowledge of her daughter's whereabouts, Plaintiff was finally permitted to speak with her daughter over the phone for a brief time. She has since been allowed only a few calls. These calls have been her only contact with A.M. during her detention—which has lasted nearly a month so far. Decl. ¶ 28.

62. During that first call, Plaintiff's daughter A.M. cried unceasingly. She was grief-stricken and terrified, and asked repeatedly when she would be able to see Plaintiff again. Decl. ¶ 29.

63. A.M.'s social worker mentioned to Plaintiff that A.M. was so depressed during her confinement that she had arranged for a therapist to assist A.M. in managing her trauma. Decl. ¶ 30.



64. Throughout her confinement and separation from her daughter, Plaintiff has felt extremely depressed and wracked with fear over the long-lasting damage that is being done to her daughter as a result of the Defendants' actions. Decl. ¶ 31.

**C. Credible Fear Interview**

65. After Plaintiff expressed a fear of returning to Honduras, an official conducted a telephonic Credible Fear Interview ("CFI") on June 25, 2018. Decl. ¶ 32.

66. By this time, Plaintiff had been detained at the PIDC for over two weeks without her daughter A.M. For a majority of that time, Plaintiff had no information regarding the whereabouts of her daughter or if her daughter was safe which caused Plaintiff to not sleep or eat for days. Plaintiff was only allowed to speak to A.M. once four days prior to the CFI. That conversation only exacerbated her depression and mental state because A.M. was terrified and despairing to the point that she had been placed under the care of a therapist. The therapist informed Plaintiff that A.M. cried continuously for days upon separation from the Plaintiff. Decl. ¶ 33.

67. The CFI was conducted by Defendant Manning and an interpreter via telephone. Defendant Manning did not explain the procedure regarding how the CFI would be conducted. Decl. ¶ 34.

68. Because of inconsistencies in the paperwork that was created to document the CFI, it is unclear how long the CFI lasted. (The paperwork reflects that the interview ended before it began.) However, Plaintiff recollects that she spent less than thirty minutes answering questions. Decl. ¶ 35.

69. While Defendant Manning did ask Plaintiff if she was taking any medication or if Plaintiff had any health issues that may affect her ability to answer questions, Defendant Manning never inquired as to the Plaintiff's state of mind. If asked, Plaintiff would have

responded that she was depressed, traumatized, fearful, and, unquestionably, not in any mental state to answer questions regarding her traumatic persecution and torture in Honduras. Decl. ¶ 36.

70. Further, Defendant Manning informed Plaintiff that she was only to answer the questions she was asked and that she was not permitted to expand or elaborate on her answers beyond the questions asked. Decl. ¶ 37.

71. Throughout the CFI, Plaintiff reports that she would attempt to limit her answers so as not to upset Defendant Manning. After Plaintiff would respond to Defendant Manning's question, Defendant Manning would restate her answer but often misstated what she had said. However, she feared correcting him. Decl. ¶ 38.

72. As Plaintiff was under extreme duress during the CFI, Plaintiff does not have a clear recollection of all the questions that were posed nor how she answered those questions. Decl. ¶ 39.

**D. Denial of Credible Fear Interview**

73. A mere two days later on June 27, 2018, Plaintiff was informed, again via telephone, that Defendant Manning had determined that Plaintiff had not established a credible fear of persecution and that her CFI had been denied (the "negative credible fear finding"). Decl. ¶ 40.

74. At that time, Plaintiff had still only been allowed to speak to her daughter once. Plaintiff was exhausted, depressed, and most of all, fearful that she would be deported to Honduras without her daughter. Plaintiff had witnessed on several occasions where mothers who had received a denial to their CFIs would be deported in the early morning hours without their children. Decl. ¶ 41.

75. Defendant Manning asked Plaintiff if she wanted to appeal the negative credible fear finding. Because Plaintiff feared she would be deported without her daughter and because Defendant Manning did not explain the ramifications of declining the right to appeal, Plaintiff orally responded that she did not want to appeal the negative credible fear finding. Again, Plaintiff was not provided any explanation regarding the potential ramifications of the negative credible fear finding or of a decision to waive review of the finding by an immigration judge. Decl. ¶ 42.

76. Upon returning to her cell, Plaintiff was informed by other detained mothers of the repercussions of choosing to not appeal the negative credible fear finding. Plaintiff did not understand that by not requesting the appeal, Plaintiff would be returned to Honduras where her persecution and torture, and possible death would be imminent. Decl. ¶ 43.

77. About an hour after she had orally declined to appeal the negative credible fear finding, Plaintiff wrote a note requesting that the negative credible fear finding be reviewed by an immigration judge. She put the note in a letter addressed to “ICE” and, at the direction of ICE guards, placed the envelope in an onsite mailbox established to transmit communications to ICE officials. Decl. ¶ 44.

78. The following day on June 28, 2018, a PIDC official, who is known to be rude and abrasive with the detainees, told Plaintiff to sign a one-page document that was in English (now known to be the “Record of Negative Credible Fear Finding and Request for Review by Immigration Judge”). The PIDC official pointed with his finger where he wanted Plaintiff to mark (which, unbeknownst to Plaintiff, was the option not to appeal the negative credible fear finding). Plaintiff, intimidated by the PIDC official who regularly screamed at detainees and

threatened to report detainees who did not sign upon request, signed the English language document. Decl. ¶ 45.

79. At no point was the document translated into Spanish, Plaintiff's native language, nor did the PIDC official explain to Plaintiff the ramifications of signing the document. Decl. ¶ 46.

80. In fact, Plaintiff was shocked to learn that a deportation order had been entered against her, and that ICE officials were in the process of deporting her to Honduras. Plaintiff believed that by giving the note to the PIDC official, she had preserved her right to appeal the negative credible fear finding. Decl. ¶ 47.

81. That Plaintiff's removal to Honduras was imminent was confirmed by PIDC detention Officer Quintera, whom counsel in this case contacted on July 5, 2018, in the context of this firm's representation of Plaintiff. *See* Declaration of John Brent Beckert, attached to and incorporated herein as Exhibit "B," at ¶¶ 8–15. Officer Quintera stated that "Plaintiff was subject to a Final Order of Expedited Removal and would be promptly deported after receiving a negative finding in her credible fear interview." *Id.* at ¶ 10.

#### **E. Deficiencies in Credible Fear Records**

82. Upon review of the CFI record, it is clear that the CFI was conducted hastily, and with no intent to genuinely assess Plaintiff's fear of persecution. This is evident by the numerous errors and inconsistencies throughout the CFI Record. *See* Credible Fear Record, Exhibit 1 to the Declaration of John Brent Beckert (hereinafter "CFI Record"). These errors include:

- a. The time of the CFI interview is noted as starting at 12:28 and ending at 12:23. *See* CFI Record at 3, Record of Determination/Credible Fear Worksheet. Because of this, it is impossible to determine how long the CFI interview lasted.

b. The CFI Record notes that Plaintiff is “Single,” when in fact Plaintiff is “Separated” from her common-law husband. *See id.* at 4, Biographic Information, Section 2.13.

c. The CFI Record notes that Plaintiff does not have Children. *See id.*, Section 2.17.

d. The CFI Record further notes that she does have one daughter; however, the Record notes that her daughter did not “arrive with [Parent].”<sup>4</sup> *See id.*, Section 2.18.

83. Despite the hasty nature of the interview, the Asylum Officer nonetheless noted that Plaintiff was “found credible” when explaining her story of persecution. *See id.* at 6, Section 4.1.

## **II. Statutory and Regulatory Framework**

84. Under the INA, a foreign national apprehended shortly after entering the United States without valid documentation is initially subject to a streamlined removal process dubbed “expedited removal.” *See* 8 U.S.C. § 1225(b)(1)(A)(i)–(iii); 69 Fed. Reg. 48,877 (Aug. 11, 2004). If, however, she can demonstrate a “credible fear” of persecution in her home country during the initial screening, *see id.* § 1225(b)(1)(A)–(B); 8 C.F.R. § 208.30(d)–(g), she is transferred to “standard” removal proceedings pursuant to 8 U.S.C. § 1229a. Once reclassified, the foreign national is entitled to a full asylum hearing before an immigration court, and, if unsuccessful, she may file an administrative appeal with the Board of Immigration Appeals (BIA). *See* 8 C.F.R. § 208.30(f); 8 U.S.C. § 1225(b)(1)(B)(ii). She may also petition for review of any removal order entered against her in the appropriate court of appeals. *See* 8 U.S.C. § 1252(a)–(b).

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<sup>4</sup> *See id.*, Section 2.18.

**III. Plaintiff's situation is the result of policies and practices promoted by the White House and adopted and implemented by Defendants.**

**A. The White House and others in the current administration have announced their intention to deter immigrants and asylum seekers from entering the United States and to remove them as quickly as possible, "with no Judges or Court Cases," if they enter.**

85. The White House and the current administration have repeatedly expressed their intention to curb immigration to the United States. To do so, they have proposed (among other things) that immigrants and asylum seekers be removed from the country as quickly as possible and "with no Judges or Court Cases," *i.e.*, without any semblance of due process.

86. For example, in a public speech in May 2018, President Donald J. Trump noted that "We have people coming into the country, or trying to come in—and we're stopping a lot of them—but we're taking people out of the country. You wouldn't believe how bad these people are. These aren't people. These are animals. And we're taking them out of the country at a level and at a rate that's never happened before."<sup>5</sup>

87. President Trump was more explicit in a series of tweets posted in June 2018, where he wrote that:

- "We cannot allow all of these people to invade our Country. When somebody comes in, we must immediately, with no Judges or Court Cases, bring them back from where they came. Our system is a mockery to good immigration policy and Law and Order."<sup>6</sup>
- "When people come into our Country illegally, we must IMMEDIATELY escort them back out without going through years of legal maneuvering. Our laws are the dumbest anywhere in the world."<sup>7</sup>

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<sup>5</sup> See <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-california-sanctuary-state-roundtable/> (last visited July 11, 2018).

<sup>6</sup> See <https://twitter.com/realdonaldtrump/status/1010900865602019329?lang=en> (last visited July 11, 2018).

<sup>7</sup> See <https://twitter.com/realdonaldtrump/status/1013146187510243328?lang=en> (last visited July 11, 2018).

- “When people, with or without children, enter our Country, they must be told to leave without our .....Country being forced to endure a long and costly trial. Tell the people “OUT,” and they must leave, just as they would if they were standing on your front lawn. Hiring thousands of “judges” does not work and is not acceptable - only Country in the World that does this!”<sup>8</sup>

(All-caps in original.)

88. Members of the current administration also expressed support for using forced family separations to curb immigration. For example, the DHS released a statement in March 2017 noting that it “continually explores options,” including forced family separation, that “may discourage [immigrants and asylum seekers] from even beginning the journey” to the United States.

**B. The Attorney General adopted the “zero tolerance policy,” which the other Defendants implemented, to accomplish the current administration’s goals of deterring immigrants and asylum seekers from entering the United States.**

89. On May 7, 2018, the Attorney General of the United States announced a “zero tolerance policy,” under which all adults entering the United States illegally would be subject to criminal prosecution, and if accompanied by a minor child, the child would be separated from the parent.<sup>9</sup> There have been widespread reports that the “zero tolerance policy” was also applied to asylum seekers.

90. Over the ensuing weeks, hundreds of migrant children were separated from their parents. The Government was not prepared to accommodate the mass influx of separated

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<sup>8</sup> See <https://twitter.com/realdonaldtrump/status/1014873774003556354>; [https://twitter.com/realDonaldTrump/status/1014875575557804034?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1014875575557804034&ref\\_url=https%3A%2F%2Ftimesofindia.indiatimes.com%2Fworld%2Fus%2Fdonald-trump-calls-on-congress-to-fix-insane-immigration-laws%2Farticleshow%2F64873642.cms](https://twitter.com/realDonaldTrump/status/1014875575557804034?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1014875575557804034&ref_url=https%3A%2F%2Ftimesofindia.indiatimes.com%2Fworld%2Fus%2Fdonald-trump-calls-on-congress-to-fix-insane-immigration-laws%2Farticleshow%2F64873642.cms) (last visited July 11, 2018).

<sup>9</sup> See U.S. Att’y. Gen., Attorney General Sessions Delivers Remarks Discussing the Immigration Enforcement Actions of the Trump Administration (May 7, 2018), <https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions> (last visited July 11, 2018).

children. Measures were not in place to provide for communication between governmental agencies responsible for detaining parents and those responsible for housing children, or to provide for ready communication between separated parents and children. Some parents have been removed at separate times and from different locations than their children.

91. It is clear that the current administration's intention in adopting this policy is not to protect children, but rather to create a public spectacle designed to deter immigrants and asylum seekers from entering the United States. When questioned about the crisis caused by forced family separations during a press conference held on July 10, 2018, the President explained that "I have a solution. Tell people not to come to our country illegally. That's the solution. Don't come to our country illegally. Come like other people do. Come legally. I'm saying this very simply: We have laws. We have borders. Don't come to our country illegally. It's not a good thing." See Louis Nelson, *Trump's solution for reunifying migrant families: 'Don't come to our country illegally'*, Politico (July 10, 2018) available at <https://www.politico.com/story/2018/07/10/trump-migrant-families-separated-706144>

(last visited July 10, 2018).

**C. Defendants have adopted and implemented policies and practices designed to accomplish the President's goals of removing immigrants and asylum seekers from the United States as quickly as possible, "with no Judges or Court Cases."**

92. Defendants have adopted and implemented policies and practices to effectuate the White House's and the current administration's desire to deport immigrants and asylum seekers without access to "Judges or Court Cases."

93. Emerging reports suggest that immigration officials, including Defendants, are using the children taken from their parents as leverage to coerce parents into withdrawing their asylum claims. For example, the family reunification Fact Sheet released by DHS on June 23,



2018, provides for family reunification only for adults “who are subject to removal” so that they may be “reunited with their children for the purposes of removal.” *See* Fact Sheet: Zero-Tolerance Prosecution and Family Reunification (June 23, 2018) *available at* <https://content.govdelivery.com/accounts/USDHS/bulletins/1f98ad8> (last visited July 11, 2018). Put another way, parents who hope to be quickly reunited with their children must abandon their own asylum claims their children’s claims. *See* Dara Lind, *Trump will reunite separated families – but only if they agree to deportation*, Vox (June 25, 2018) *available at* <https://www.vox.com/2018/6/25/17484042/children-parents-separate-reunite-plan-trump> (last visited July 11, 2018).

94. This policy has been effective. On June 24, 2018, a DHS official tweeted that parents separated from their children “were quickly given the option to sign paperwork leading to their deportation. Many chose to do so.” *See* <https://twitter.com/jacobsoboroff/status/1010862394103328771> (last visited July 11, 2018). This is consistent with other accounts of parents signing voluntary deportation paperwork out of “desperation” because officials had suggested that it would lead to faster reunification with their children. *See, e.g.*, Jay Root and Shannon Najmabadi, *Kids in exchange for deportation: Detained migrants say they were told they could get kids back on way out of U.S.*, Texas Tribune (June 24, 2018) *available at* [https://www.texastribune.org/2018/06/24/kids-exchange-deportation-migrants-claim-they-were-promised-they-could/?utm\\_campaign=trib-social-buttons&utm\\_source=twitter&utm\\_medium=social](https://www.texastribune.org/2018/06/24/kids-exchange-deportation-migrants-claim-they-were-promised-they-could/?utm_campaign=trib-social-buttons&utm_source=twitter&utm_medium=social) (last visited July 11, 2018).

95. Likewise, on June 24, 2018, a senior administrative official speaking on the condition of anonymity confirmed that defendants do not plan to reunite families until after a parent has lost his or her deportation case, effectively punishing parents who may otherwise

pursue an asylum claim or other relief request and creating tremendous pressure to abandon such claims so that parents may be reunited with kids. *See* Maria Saccherri, Michael Miller and Robert Moore, *Sen. Warren visits detention center, says no children being returned to parents there*, The Washington Post (June 24, 2018) available at [https://www.washingtonpost.com/local/immigration/desperate-to-get-children-back-migrants-are-willing-to-give-up-asylum-claims-lawyers-say/2018/06/24/c7fab87c-77e2-11e8-80be-6d32e182a3bc\\_story.html](https://www.washingtonpost.com/local/immigration/desperate-to-get-children-back-migrants-are-willing-to-give-up-asylum-claims-lawyers-say/2018/06/24/c7fab87c-77e2-11e8-80be-6d32e182a3bc_story.html) (last visited July 11, 2018).

96. These policies and practices—including forced family separation, harsh detention, abuse, intimidation, threats to family reunification, and legally deficient asylum processing—were used against Plaintiff.<sup>10</sup> As set forth herein, Plaintiff has been forcibly separated from her minor daughter by Defendants for nearly a month (despite the fact that Defendants created records falsely stating that A.M. did *not* “Arrive with [Plaintiff]”); has been threatened with permanent separation from A.M.; has been harassed, abused, and humiliated by Defendants; was subjected to a slapdash, legally deficient CFI; and has been intimidated into signing English-language documents that she cannot read and does not understand the import of (including its impact on her asylum claims).

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<sup>10</sup> Seventeen states and the District of Columbia have filed a lawsuit against the Trump administration to enjoin the practice of forced family separations. *See, State of Washington v. Donald Trump*, 2:18-cv-00939-MJP, currently pending in the United States District Court for the Western District of Washington at Seattle. The states recently submitted a Motion for Expedited Discovery and Regular Status Conferences (Dkt. 15) which is supported by detailed affidavits by parents who have been forcibly separated from their children and by lawyers who represent the parents and the children. This testimony is replete with accounts of agents using abuse and intimidation which the agents allegedly admit is a means to deter immigrants and asylum seekers.

## CAUSES OF ACTION

### COUNT 1 – VIOLATION OF FIFTH AMENDMENT DUE PROCESS RIGHTS

97. All of the foregoing allegations are repeated and realleged as through fully set forth herein.

98. At all times relevant to this litigation, Defendants have been acting under the color of the laws of the United States.

99. The Due Process Clause of the Fifth Amendment applies to all “persons” on United States soil and thus applies to Plaintiff and her daughter.

100. Plaintiff has a liberty interest under the Due Process Clause in remaining together as a family with her minor daughter, A.M.

101. Plaintiff has a liberty interest in being free from arbitrary prolonged detention, unnecessary physical restraints, and harsh and prison-like conditions with emotionally abusive prison officers.

102. The interests set forth in the foregoing paragraphs are fundamental rights and are protected by substantive due process under the Fifth Amendment of the United States Constitution.

103. Plaintiff also has a property and liberty interest in her right to petition for political asylum and/or CAT withholding of removal.

104. Plaintiff is also entitled to some procedural protections under the Due Process Clause.

105. But Defendants have violated Plaintiff’s Due Process rights pursuant to Defendants’ policies (including without limitation their “zero tolerance policy”), patterns and practices as follows:

a. Defendants have ripped apart Plaintiff's family by forcibly and arbitrarily separating her from her minor daughter, A.M., without justification and for a prolonged period of time.

b. Defendants are subjecting Plaintiff to arbitrary and prolonged detention in harsh and prison-like conditions, without any adequate justification therefor.

c. Defendants are punishing the Plaintiffs for seeking asylum in the United States, in accordance with the policies put forth in the public statements made by President Trump and other members of his administration, including Defendants.

d. Defendants are denying Plaintiff her right to a legally sufficient CFI and a properly-requested hearing before an immigration judge.

106. Such violations have caused and are causing mental and physical harms to the Plaintiff and her daughter, and have hampered Plaintiff's access to justice.

107. Plaintiff seeks declaratory and injunctive relief against the Defendants in their official capacities.

108. Plaintiff brings this constitutional claim against Defendants in their official capacities.

#### **COUNT 2 – VIOLATION OF THE RIGHT TO PETITION**

109. All of the foregoing allegations are repeated and realleged as through fully set forth herein.

110. At all times relevant to this litigation, Defendants have been acting under the color of the laws of the United States.

111. Plaintiff has a combined First and Fifth Amendment right to petition the United States government for asylum under 8 U.S.C. §§ 1158(a)(1) and 1225 and/or withholding of removal under the Convention Against Torture.

112. Plaintiff also has a First and Fifth Amendment right to be free of retaliation, penalties, deterrence, or chilling effects in seeking asylum and/or withholding remedies.

113. As set forth herein, Defendants have violated the Plaintiffs' First and Fifth Amendment rights by, *inter alia*, improperly subjecting her to a legally deficient CFI, trying to prevent her from seeking review by an immigration judge of the negative credible fear finding by Defendant Manning and using her forced separation from her daughter as leverage to try to force her to abandon her asylum claim.

114. Plaintiff has suffered and continues to suffer mental and physical harm, and to be unduly hampered in obtaining counsel and participating in the proper preparation of her case, as a result of the Defendants' actions.

115. Defendants have no adequate justification for such violations of the Plaintiff's rights.

116. Plaintiff seeks declaratory and injunctive relief pursuant to the First and Fifth Amendments of the United States Constitution.

117. Plaintiff brings this constitutional claim against Defendants in their official capacities.

**COUNT 3 – ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706**

118. All of the foregoing allegations are repeated and realleged as through fully set forth herein.

119. At all times relevant to this litigation, Defendants were acting under the color of the laws of the United States.

120. The Department of Homeland Security, the U.S. Immigration and Customs Enforcement, and the Department of Justice are United States agencies, and all Defendants are officials of those agencies.

121. Defendants' final removal order is a final agency action.

122. The Refugee Protocol was ratified by the United States government, and incorporated into U.S. domestic law. *See* Refugee Protocol: 8 U.S.C. § 1101 *et. seq.*

123. The Convention Against Torture has likewise been ratified and incorporated into U.S. domestic law. *See* Convention Against Torture: 8 CFR 208.18.

124. These treaties and statutes are designed to protect victims of persecution and to prevent them from being returned to any region where they are at risk of persecution and/or torture.

125. Plaintiff's right to seek asylum and/or withholding of removal, and to be free of removal to any region where they face persecution and/or torture, fall within the zone of interests expressly protected by these statutes and treaties.

126. Defendants' "zero tolerance policy" is final and binding agency action.

127. Defendants have violated the Administrative Procedure Act as set forth herein, including:

a. Pursuant to policy and practice, Defendants have deprived Plaintiff of the ability to demonstrate that she has a credible fear of persecution or torture in violation of the APA. Defendants have willfully and unreasonably deprived Plaintiff of an opportunity to establish a credible fear of persecution or torture necessary to apply for asylum under United States immigration law.

b. The CFI that Plaintiff was provided was defective because, *inter alia*, Plaintiff did not understand the process sufficiently and because the officer did not give Plaintiff an opportunity to explain the bases for her asylum claim. Accordingly, the CFI violates 8 C.F.R. § 208.30(d).

c. Furthermore, Plaintiff was denied the opportunity to have an immigration judge review the asylum officer's adverse credible fear finding. Plaintiff requested review by an immigration judge, which has not been honored. This failure to provide Plaintiff with the requested review violates 8 C.F.R. § 1208.

128. Plaintiff has suffered physical and emotional harm as a result of the Defendants' unlawful actions and continues to suffer such harms at this time.

129. Plaintiff has been and still is seriously hampered in preparing her legal case.

130. Plaintiff seeks injunctive relief against the Defendants pursuant to the Administrative Procedure Act, 5 U.S.C. § 702 *et. seq.*

131. Plaintiff brings this claim against the Defendants in their official capacities.

#### **COUNT 4 – HABEAS CORPUS**

132. All of the foregoing allegations are repeated and realleged as through fully set forth herein.

133. Plaintiff is currently in custody and her property and liberty rights have been violated.

134. Defendants failed to lawfully apply the INA and implementing regulations to Plaintiff's detention. In seeking to determine whether Plaintiff demonstrated a credible fear of persecution, Defendants failed to "elicit all relevant and useful information bearing on the applicant's eligibility for asylum," 8 C.F.R. § 1208.9. Further, Defendant's deceptive actions in attempting to obtain a waiver of review deprived Plaintiff of her administrative appeal rights. 8 C.F.R. § 1208; *see Am-Arab Anti-Discrimination Comm. v. Ashcroft*, 272 F. Supp. 2d 650, 662–63 (E.D. Mich. 2003) (reviewing whether asylum statute lawfully applied).

135. Defendants' execution of the CFI and expedited removal process, placing Plaintiff under extreme duress and neglecting Defendants' obligation to ensure an applicant's understanding of the asylum and expedited removal process, violated international treaties and domestic law, as well as Plaintiff's right to Due Process.

136. Defendant's actions during Plaintiff's detention have deprived Plaintiff of her regulatory, statutory and constitutional rights, giving rise to her cause of action in habeas corpus.

137. Plaintiff seeks declaratory and injunctive relief pursuant to 28 U.S.C. § 2241.

### **PRAYER**

WHEREFORE, Plaintiff prays that the Court:

1. Compel Defendants to reunite Plaintiff with her daughter forthwith;<sup>11</sup>
2. Compel Defendants to conduct a credible fear interview that complies with the requirements set out in the APA after Plaintiff and her daughter have been reunited and have had time to readjust; and

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<sup>11</sup> *See Ms. L. v. U.S. Immigration & Customs Enforcement*, 18-cv-0428 DMS (MDD), Order Granting Plaintiffs' Motion for Classwide Preliminary Injunction, dated June 26, 2018.



3. Compel Defendants to allow a full review of any negative credible fear interview by an immigration judge; and

4. Grant any other and further relief as this Court deems proper under the circumstances.

HAYNES AND BOONE, LLP

By: /s/ Leslie C. Thorne

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**VERIFICATION BY SOMEONE ACTING ON PLAINTIFF'S BEHALF  
PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am one of Plaintiff's attorneys. I have discussed with Plaintiff the events described in this Petition for Habeas Corpus and Complaint. On the basis of those discussions, I hereby verify that the statements made herein are true and correct to the best of my knowledge.

Dated: July 11, 2018

*/s/ Carla Green* \_\_\_\_\_  
Carla Green  
Attorney for Petitioner

# Exhibit “A”

**Declaración de**

A # 215-762-223

Mi nombre es \_\_\_\_\_ . Soy un adulto sensato, conozco personalmente los hechos expuestos en este documento y soy competente en todos los aspectos para hacer esta declaración. Esta declaración la doy libremente y sin presión o coacción. Juro bajo pena de perjurio y bajo las leyes de los Estados Unidos que lo siguiente es verdadero y correcto.

**Mi Persecución y Tortura Por un Ex Oficial de Policía**

1. Llegué a los Estados Unidos desde El Negrito Yoro, Honduras después de sufrir una persecución continua en mi país natal, Honduras. Viajé e ingresé a los Estados Unidos con mi hija biológica de 12 años. Esta niña es producto de unión libre previo con mi ex-pareja.

2. Durante aproximadamente dos años antes de huir a los Estados Unidos, salí con un hombre llamado \_\_\_\_\_ (“Señor L \_\_\_\_\_”). El Sr. L \_\_\_\_\_ y yo vivimos juntos, pero no estábamos casados. El Sr. L \_\_\_\_\_ había trabajado para la fuerza de policía hondureña en El Negrito Yoro. A pesar de ser un ex agente de policía, aun mantiene una relación cercana con muchos oficiales de la fuerza policial.

3. Durante el curso de mi relación con el Sr. L \_\_\_\_\_ , el Sr. L \_\_\_\_\_ fue abusivo conmigo. El abuso aumentó a fines de 2017, cuando supe que el Sr. L \_\_\_\_\_ había sido infiel e intenté terminar la relación.

4. En respuesta a mis intentos de terminar la relación, el Sr. L \_\_\_\_\_ se volvió extremadamente emocional y físicamente abusivo. El Sr. L \_\_\_\_\_ me golpeaba y estrangulaba regularmente. En un momento, el Sr. L \_\_\_\_\_ , ebrio y bajo la influencia de las drogas, intentó apuñalarme en el estómago con un destornillador.

5. Además, en aproximadamente seis o siete ocasiones, el Sr. L me violó por la fuerza cuando yo rechazaba sus avances sexuales. La situación se intensificó cuando el Sr. L me asfixió hasta el punto en que no podía respirar. Mientras me asfixiaba, el Sr. L me dijo que me mataría.

6. Hice los arreglos para que mi hija se quedara con mi madre en las noches para evitar que mi hija tuviera que presenciar el abuso cuando el Sr. L llegaba. Por lo tanto, solo podía pasar tiempo con mi hija durante el día mientras el Sr. L estaba fuera de casa.

7. Sentí que no podía buscar protección de la policía ni presentar un reporte policial porque el Sr. L había trabajado anteriormente como oficial de policía en El Negrito Yoro y mantenía relaciones cercanas con muchos de los oficiales de policía que permanecían en la fuerza. Temía que si denunciaba el abuso, los agentes de policía no castigarían al Sr. L y, por el contrario, los agentes de policía alertarían al Sr. L de que yo estaba intentando denunciarlo. Por lo tanto, temí que notificar a la policía sobre mi abuso a manos del Sr. L solo empeoraría mi persecución y tortura.

8. También temí que los oficiales no tomarían mis quejas en serio porque soy una madre soltera divorciada, un estado que está muy estigmatizado en Honduras.

### **Mi Persecución a Manos de Maras Gang**

9. Era dueña de una pequeña tienda de alimentos en El Negrito Yoro.

10. Las mujeres solteras –o sea las mujeres que no están en relaciones con hombres que las protejan- son muy vulnerables en Honduras, especialmente cuando tienen hijos. Las pandillas a menudo se dirigen a madres solteras porque saben que ellas no están “protegidas” por la presencia de un hombre.

11. El Sr. L solía irse por varios períodos de tiempo a lo largo de nuestra relación. Durante sus ausencias, y después de que intenté terminar la relación con el Sr. L , lo cual resultó en su abuso de mí, una pandilla que entiendo era la Banda Maras (la “Banda Maras”) regularmente me amenazaba y acosaba porque era una madre soltera y desprotegida.

12. El Maras Gang comenzó a extorsionarme por cualquier dinero que tenía disponible en la tienda.

13. Después de tomar todo mi dinero, la Maras Gang insistió en que escondiera pistolas y drogas en mi tienda para ayudar a la pandilla a evitar ser detectada por las autoridades.

14. Cuando me negué, la Maras Gang me dijo que me matarían y que sabían dónde iba mi hija a la escuela y que también matarían a mi hija.

15. No informé a la policía local de los incidentes con la Maras Gang porque se sabía que la pandilla sobornaba, pagaba, se confabulaba y recibía protección de la policía. Por lo tanto, temí que reportar la acción atraería la atención de la Maras Gang.

**Escápese a los Estados Unidos; Detención y separación forzada de mi hija**

16. Después de padecer repetidos asaltos del Sr. L y amenazas constantes a mi propia vida y la vida de mi hija tanto del Sr. L como de la Banda Maras, huí con mi hija de Honduras el 20 de mayo o alrededor de esa fecha. Yo había considerado huir a otra ciudad en Honduras, pero decidí abandonar Honduras por completo debido al amplio alcance de la Banda Maras en mi país.

17. Mi hija y yo cruzamos Guatemala y México en autobús. Llegué a una ciudad que más tarde supe que era McAllen el 8 de junio de 2018 o después, después de cruzar el Río Bravo. A los pocos minutos de cruzar la frontera, mi hija y yo nos rendimos ante la CBP y nos llevaron a un lugar al que llamábamos la hielera por lo frío que hacía adentro.

18. Los guardias me separaron por la fuerza de mi hija en la hielera y me dijeron que no debería haber venido a este país con mi hija. Mi hija y yo gritamos y rogamos a los oficiales que no nos separaran, pero los oficiales procedieron a separarme por la fuerza de mi hija.

19. Durante mi tiempo en la hielera, los oficiales de detención me gritaron y me amenazaron en repetidas ocasiones y me dijeron que sería castigada por venir ilegalmente a este país.

20. Me dijeron que sería deportada sola, mientras que mi hija permanecería en los Estados Unidos.

21. Cuando me separaron por primera vez de mi hija, los oficiales de detención me dijeron que podría volver a ver a mi hija en 48 horas, pero eso fue una mentira. No he visto a mi hija desde que fuimos separadas por la fuerza.

22. Luego me llevaron a un centro de detención de inmigrantes que llamamos La Perrera porque se asemeja a una perrera.

23. Sabía que algunos niños estaban detenidos en La Perrera y esperaba que mi hija estuviera cerca, así que comencé a sollozar histéricamente y repetidamente les pedí a los oficiales que me dieran “cinco minutos” con mi hija para que pudiera contarle que todo estaría bien.

24. En respuesta, los guardias me gritaron y me dijeron que guardara silencio. También me gritaban acerca de venir al país “ilegalmente” y me amenazaban con que sería deportada sin mi hijo como castigo por mis acciones. No me reunieron con mi hija, que luego descubrí que había sido enviada a miles de millas de distancia a un centro de detención de menores en Florida.



25. Después de tres días en La Perrera, el 9 de junio de 2018 me llevaron al juzgado federal de Brownsville, Texas, donde comparecí ante un juez.

26. En la corte, los oficiales prometieron que me reuniría con mi hija al ser transferida al Centro de Detención de Port Isabel (“PIDC”).

27. Me quedé muy triste cuando me di cuenta de que los oficiales me habían mentado, y estuve detenida en el PIDC sin ningún contacto con mi hija durante diez días.

28. Después de diez días prolongados de detención sin conocer el paradero de mi hija, finalmente me permitieron hablar por teléfono con mi hija por un breve tiempo. Desde entonces, se me permitió otra llamada con mi hija. Estas dos llamadas han sido mi único contacto con mi hija durante mi detención, que ha durado casi un mes hasta el momento.

29. Durante esa primera llamada, mi hija lloró incontrolablemente. Estaba desconsolada y aterrada, y me preguntó repetidamente cuándo podría volver a verme.

30. La trabajadora social de mi hija mencionó que mi hija estaba tan deprimida durante mi encierro que ella había arreglado que un terapeuta ayudara a mi hija a manejar su trauma.

31. A lo largo de mi confinamiento y separación de mi hija, me he sentido extremadamente deprimida y temerosa por el daño que esta separación está causando a mi hija.

### **Mi Entrevista de Miedo Creíble**

32. Después de expresar mi temor de regresar a Honduras, los funcionarios me concedieron una entrevista telefónica de miedo creíble el 25 de junio de 2018.

33. Para entonces, había estado detenida en el PIDC durante más de dos semanas sin mi hija. Durante la mayoría de ese tiempo, no tenía información sobre el paradero de mi hija o si mi hija estaba a salvo, lo cual me hizo no dormir ni comer durante días. Solo se me permitió

hablar con mi hija cuatro días antes de la entrevista. Esa conversación solo empeoró mi depresión y mi estado mental porque mi hija estaba aterrorizada y desesperada hasta el punto que tuvo que ser colocada bajo el cuidado de un terapeuta. El terapeuta me informó que mi hija lloraba continuamente durante días después de su separación de mí.

34. Mi entrevista fue con Brian Manning y otro intérprete por teléfono. El Sr. Manning no explicó por qué estaba conduciendo la entrevista ni se me proporcionó ningún tipo de documentación que explicara el proceso de la entrevista.

35. Recuerdo que pasé un poco menos de treinta minutos respondiendo a preguntas.

36. El Sr. Manning me preguntó si estaba tomando algún medicamento o si tenía algún problema de salud que pudiera afectar mi capacidad para responder a preguntas, pero el Sr. Manning no me preguntó cómo me sentía o si me sentía lo suficientemente bien como para responder a las preguntas. Si me hubiera preguntado, le habría dicho al señor Manning que estaba deprimida, traumatizada, temerosa y que no estaba en condiciones de responder a preguntas sobre mi persecución y tortura traumática en Honduras.

37. El Sr. Manning también insistió en que solo respondiera a las preguntas que me hacía y él no me permitía ampliar o explicar mis respuestas más allá de las preguntas que me hacía.

38. A lo largo de la entrevista, intentaba limitar mis respuestas para no molestar al Sr. Manning. Después de responder a una pregunta del Sr. Manning, el Sr. Manning reafirmaba mi respuesta, pero a menudo malinterpretaba lo que había dicho. Sin embargo, tenía demasiado miedo para corregirlo.

39. Estuve bajo coacción extrema durante la entrevista. Honestamente, no recuerdo bien todas las preguntas que el Sr. Manning me hizo ni recuerdo exactamente cómo respondí.

**Mi Hallazgo Negativo de Miedo Creíble**

40. El 27 de junio de 2018, se me informó, nuevamente por teléfono, que el Sr. Manning había determinado que no había establecido un temor creíble de persecución y que mi entrevista había sido denegada.

41. En ese momento en que me informaron de la negación, solo me habían permitido hablar con mi hija una vez. Estaba exhausta, deprimida y, sobre todo, temerosa de que me deportaran a Honduras sin mi hija. Había visto en varias ocasiones a otras madres, después de haber recibido una negativa a su entrevista, ser expulsadas en la madrugada sin sus hijos.

42. El Sr. Manning me preguntó si deseaba apelar la negativa conclusión de temor creíble. Debido a que temía que fuera deportada sin mi hija y porque el demandado Sr. Manning no explicó qué sucedería si rechazaba mi derecho a apelar, ese día le dije por teléfono que no quería apelar mi miedo negativo y creíble. Una vez más, no se me proporcionó ninguna documentación o explicación con respecto a mi hallazgo de miedo negativo y creíble.

43. Al regresar a mi celda, otra madre detenida me informó de lo que sucedería ahora después de optar por no apelar a mi hallazgo de miedo negativo y creíble. No había entendido que al no solicitar la apelación, sería devuelta a Honduras donde mi persecución, tortura y posible muerte serían inminentes.

44. Aproximadamente una hora después de haber rechazado apelar mi hallazgo de miedo negativo y creíble, solicité a un guardia del PIDC que tomara una nota escrita para que el oficial de asilo rescindiera mi solicitud de no apelar. Informé a la guardia del PIDC que me gustaría apelar mi hallazgo de miedo negativo y creíble ante un juez de inmigración. Nunca recibí una respuesta ese día.

45. Al día siguiente, el 28 de junio de 2018, un funcionario del PIDC, que sé que es grosero y agresivo con todas las madres detenidas, me dijo que firmara un documento de una página en inglés. El oficial de PICD señaló con su dedo dónde quería que marcara en el papel. Más tarde, mis abogados me dijeron que había marcado la opción de no apelar a mi hallazgo de miedo negativo y creíble, pero no sabía en ese momento que eso era lo que estaba haciendo porque el funcionario no explicó el documento y estaba en inglés. El funcionario del PIDC me intimidó y siempre grita a las otras madres detenidas y amenaza con denunciarlas si no firma su solicitud. Así que firmé el documento que estaba en inglés.

46. En ningún momento el oficial me ofreció traducir el documento a mi lengua materna, el español. El funcionario tampoco explicó qué sucedería si firmaba este documento.

47. Me sorprendió saber que se había presentado una orden de deportación contra mí, y que los funcionarios del ICE estaban en el proceso de deportarme de regreso a Honduras. Creí que al entregar la nota al funcionario de PIDC, había preservado mi derecho a apelar mi hallazgo de miedo negativo y creíble.

\* \* \* \* \*

Declaro bajo pena de perjurio que lo anterior es verdadero y correcto. Ejecutado en

8/07/18.

Fecha

**Declaration of [REDACTED]**

**A# 215-762-223**

My name is [REDACTED] I am an adult of sound mind, I have personal knowledge of the facts set forth herein, and I am competent in all respects to make this declaration. I make this declaration freely and in the absence of any pressure or coercion. I swear under penalty of perjury under the laws of the United States that the following is true and correct.

**My Persecution and Torture by a Former Police Officer**

1. I came to the United States from El Negrito Yoro, Honduras, after suffering continuous persecution in my native country of Honduras. I traveled to and entered the United States with my 12 year-old biological daughter. She is my child, born of a prior common-law relationship with my former partner.

2. For approximately two years before I fled to the United States, I dated a man named [REDACTED] ("Mr. L [REDACTED] Mr. L [REDACTED] and I lived together, but we were not married. Mr. L [REDACTED] had served on a Honduran police force in El Negrito Yoro. Although he is a former police officer, he still maintains close relationships with many officers on the police force.

3. During the course of my relationship with Mr. L [REDACTED] Mr. L [REDACTED] was abusive toward me. The abuse escalated in late 2017, when I learned that Mr. L [REDACTED] had been unfaithful and I attempted to end the relationship.

4. In response to my attempts to end the relationship, Mr. L [REDACTED] became extremely abusive, both emotionally and physically. Mr. L [REDACTED] hit, punched, and choked me on a regular basis. At one point, Mr. L [REDACTED] inebriated and under the influence of drugs, attempted to stab me in the stomach with a screwdriver.

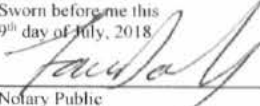
STATE OF NEW YORK }  
COUNTY OF NEW YORK } SS:

**CERTIFICATE OF ACCURACY**

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Stephanie Felix-Caldarelli  
Trustforte Language Services

Sworn before me this  
9<sup>th</sup> day of July, 2018.  
  
Notary Public

**LANCE DASHEFSKY**  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01DA6221113  
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5. Additionally, on approximately six or seven occasions, Mr. L [redacted] forcibly raped me when I refused his advances. The situation escalated when Mr. L [redacted] choked me to the point where I could not breathe. While choking me, Mr. L [redacted] told me that he would kill me.

6. I arranged for my daughter to stay with my mom, to keep my daughter from having to witness the abuse when Mr. L [redacted] arrived home. I was therefore limited to spending time with my daughter during the day, while Mr. L [redacted] was out.

7. I felt I could not seek protection from the police or file a police report because Mr. L [redacted] had previously worked as a police officer in El Negrito Yoro and maintained close relationships with many of police officers remaining on the force. I feared that if I reported the abuse, the police officers would not punish Mr. L [redacted], but on the contrary, the police officers would alert Mr. L [redacted] that I was attempting to report him. Therefore, I feared that notifying the police about my abuse at the hands of Mr. L [redacted] would only make my persecution and torture worse.

8. I also feared that the officers would not take my complaints seriously because I am a divorced single mom, a status which is highly stigmatized in Honduras.

**My Persecution at the hands of the Maras Gang**

9. I owned a small food store in El Negrito Yoro.

10. Single women—that is, women who are not in relationships with men who will protect them—are very vulnerable in Honduras, especially when they have children. Gangs often target single moms because they know they are not “protected” by the presence of a man.

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11. Mr. L [REDACTED] often left for various periods of time throughout our relationship. During his absences, and after I attempted to end the relationship with Mr. L [REDACTED], which led to his abuse of me, a gang I understand to be the Maras Gang (the "Maras Gang") regularly threatened and harassed me because I was a single and unprotected mother.

12. The Maras Gang began to extort me for any money I had available in the store.

13. After taking all my money, the Maras Gang insisted that I hide guns and drugs in my store to help the gang avoid detection by the authorities.

14. When I refused, the Maras Gang told me that they would kill me and they knew where my daughter went to school and would kill my daughter too.

15. I did not report the incidents with the Maras Gang to the local police because the gang was known to bribe, pay off, collude with, and receive protection from the police. I therefore feared that reporting the action would attract the Maras Gang's attention.

**Escape to the United States; Detention and Forced Separation From My Daughter**

16. After facing repeated assaults by Mr. L [REDACTED] and constant threats to my own life and my daughter's life from both Mr. L [REDACTED] and the Mara gang, I fled with my daughter from Honduras on or about May 20, 2018. I had considered fleeing to another city in Honduras, but decided to leave Honduras altogether due to the wide reach of the Maras gang in my country.

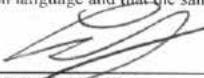
17. My daughter and I crossed Guatemala and Mexico by bus. I arrived in what I later learned was McAllen on or about June 8, 2018 after crossing the Rio Grande. Within a few minutes of crossing the border, my daughter and I surrendered to CBP and we were taken to a place we called the *hielera* (icebox) because the interior was very cold.

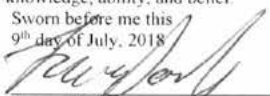
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18. The guards forcibly separated me from my daughter in the *hielera*, and told me that I should have not come to this country with my child. My daughter and I screamed and begged the officers to not separate us, but the officers proceeded to forcibly separate me from my daughter.

19. During my time in the *hielera*, I was repeatedly yelled at and threatened by the detention officers, who told that me I would be punished for coming to the country illegally.

20. I was told that I would be deported alone, while my daughter would remain in the United States.

21. When they first separated me from my daughter, the detention officers told me I would be able to see my daughter again in 48 hours—but that was a lie. I have not seen my daughter since we were forcibly separated.

22. I was then taken to an immigration detention facility we called *La Perrera* (The Doghouse) because it resembles a dog kennel.

23. I knew that some children were detained in *La Perrera* and I had hoped that my daughter was close by, so I began sobbing hysterically and repeatedly asked the officers to give me “five minutes” with my daughter so I could let her know that everything would be OK.

24. In response, the guards shouted at me and told me to be quiet. They also yelled at me about coming into the country “illegally” and threatened that I would be deported without my child as punishment for my actions. They did not reunite me with my daughter, who I later found out had been shipped thousands of miles away to a child detention facility in Florida.

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25. After three days in *La Perrera*, I was taken to the federal courthouse in Brownsville, Texas, on June 9, 2018, where I appeared before a judge.

26. At the courthouse, the officers promised that I would be reunited with my daughter upon being transferred to the Port Isabel Detention Center (“PIDC”).

27. I was grief-stricken when I realized that the officers had lied to me, and I was detained in the PIDC with no contact with my daughter for ten days.

28. After ten long days of detention with no knowledge of my daughter’s whereabouts, I was finally permitted to speak with my daughter over the phone for a short time. I have since been allowed one other call with my daughter. These two calls have been my only contact with my daughter during my detention—which has lasted nearly a month so far.

29. During that first call, my daughter cried uncontrollably. She was grief-stricken and terrified, and asked me repeatedly when she would be able to see me again.

30. My daughter’s social worker mentioned that my daughter was so depressed during my confinement that she had arranged for a therapist to assist my daughter in managing her trauma.

31. Throughout my confinement and separation from my daughter, I have felt extremely depressed and fearful over the damage this separation is causing my daughter.

**My Credible Fear Interview**

32. After I expressed a fear of returning to Honduras, the officials gave me a credible fear interview by telephone on June 25, 2018.

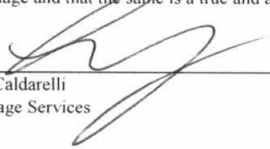
33. By this time I had been detained at the PIDC for over two weeks without my daughter. For a majority of that time, I had no information regarding my daughter’s whereabouts or if my daughter was safe, as a result of which I did not sleep or eat for days. I was only allowed

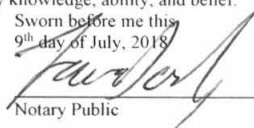
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to speak to my daughter once four days prior to the interview. That conversation only made my depression and mental state worse because my daughter was terrified and despairing to the point where she had to be placed under the care of a therapist. The therapist informed me that my daughter cried continuously for days upon her separation from me.

34. My interview was with Brian Manning and another interpreter by telephone. Mr. Manning did not explain why he was conducting the interview, nor was I provided any sort of paperwork which explained the interview process.

35. I remember that I spent a little less than thirty minutes answering questions.

36. Mr. Manning asked if I was taking any medication or if I had any health issues that might affect my ability to answer questions, but Mr. Manning did not ask me how I was feeling or if I felt well enough to answer the questions. Had he asked me, I would have told Mr. Manning that I was depressed, traumatized, fearful, and, not in any position to answer questions regarding my traumatic persecution and torture in Honduras.

37. Mr. Manning also insisted that I only answer the questions I was asked and that I was not permitted to expand or elaborate on my answers beyond the questions he asked.

38. Throughout the interview, I attempted to limit my answers so as not to upset Mr. Manning. After responding to a question from Mr. Manning, Mr. Manning would restate my answer but often misunderstood what I had said. However, I was too fearful to correct him.

39. I was under extreme duress during the interview. I honestly do not have a clear recollection of all the questions that Mr. Manning asked me, nor do I remember exactly how I answered.

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**My Negative Credible Fear Finding**

40. On June 27, 2018 I was informed, once again by telephone, that Mr. Manning had determined that I had not established a credible fear of persecution and that my interview had been denied.

41. At the time they told me about the denial, I had still only been allowed to speak to my daughter once. I was exhausted, depressed, and most of all, fearful that I would be deported to Honduras without my daughter. I had witnessed several occasions where other mothers who had received a denial to their interview were deported in the early morning hours without their children.

42. Mr. Manning asked me if I wanted to appeal the negative credible fear finding. Because I feared I would be deported without my daughter and because Defendant Manning did not explain what would happen if I declined my right to appeal, I told him over the phone that day that I did not want to appeal my negative credible fear finding. Again, I was not provided any paperwork or explanation regarding my negative credible fear finding.

43. Upon returning to my cell, I was informed by another detained mother of what would now happen after choosing to not appeal my negative credible fear finding. I did not understand that by not requesting the appeal, I would be returned to Honduras where my persecution and torture, and possible death, would be imminent.

44. About an hour after I had declined to appeal my negative credible fear finding, I asked a PIDC guard take a written note to the asylum officer for him to rescind my request not to appeal. I informed the PIDC guard that I would like to appeal my negative credible fear finding before an immigration judge. I never received a response that day.

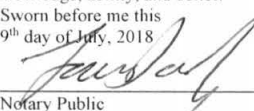
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45. The following day, June 28, 2018, a PIDC official whom I know to be rude and abrasive with all the detained mothers told me to sign a one-page document that was in English. The PICD official pointed with his finger where he wanted me to make my mark on the paper. My attorneys later told me that I had marked the option to not appeal my negative credible fear finding, but I did not know at the time that this was what I was doing because the official did not explain the document and it was in English. I was intimidated by the PIDC official who always screams at the other detained mothers and threatens to report them if they do not sign on his request. So I signed the document that was in English.

46. At no point did the official offer to translate the document into my native language of Spanish. The official also did not explain what would happen if I signed this document.

47. I was shocked to learn that a deportation order had been entered against me, and that ICE officials were in the process of deporting me back to Honduras. I believed that by giving the note to the PIDC official, I had preserved my right to appeal my negative credible fear finding.

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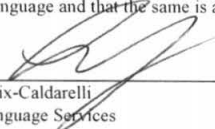
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I declare under penalty of perjury that the foregoing is true and correct. Executed on

07/08/2018

Date

[Signature]

[Redacted Signature]

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# Exhibit “B”





1. My name is John Brent Beckert. I am an attorney at the law firm of Haynes and Boone, LLP in its Dallas, Texas office. I am over the age of majority and competent to make this declaration based on my personal knowledge as lawyer of record for Plaintiff Jane Doe (“Plaintiff”).

2. I submit this declaration in support of Plaintiff’s Petition for Habeas Corpus and Complaint for Injunctive and Declaratory Relief and Plaintiff’s Emergency Motion for Temporary Restraining Order and Preliminary Injunction.

3. This original ink-signature declaration is in the possession of the filer of this declaration, will be maintained by the filer for at least five years after this litigation has concluded, and will be readily available if needed for evidentiary purposes.

4. My Haynes and Boone, LLP colleague Carla Verena Green and I met with Plaintiff on Tuesday, July 3, 2018 at the Port Isabel Detention Center for an initial client intake interview.

5. During this interview, Ms. Green and I agreed to represent Plaintiff and her daughter in their pending immigration proceedings.

6. On Thursday, July 5, 2018, I sent a facsimile to the Port Isabel Detention Center containing a DHS Form G-28 for Plaintiff on behalf of my colleague, Carla Verena Green (the “Form G-28”).

7. My name and contact information were included on the cover page of this facsimile.

8. At approximately 2:24 PM CST on Thursday, July 5, 2018, I received a call from a woman who introduced herself as ICE Officer Quintera, who called from 1-956-547-1700. Officer Quintera asked me if I sent the Form G-28 for Plaintiff.

9. I advised Officer Quintera that I faxed the Form G-28 on behalf of Ms. Green, and that we recently met with Plaintiff and agreed to represent her in her pending asylum proceedings.

10. Officer Quintera said that sending the Form G-28 was unnecessary, because Plaintiff was subject to a Final Order of Expedited Removal and would be promptly deported after receiving a negative finding in her credible fear interview.

11. Officer Quintera further advised that Plaintiff requested not to have an Immigration Judge review her adverse credible fear determination.

12. I recall being surprised by Officer Quintera's statement, because Plaintiff did not mention during our initial intake interview that she decided to waive her right to appeal the adverse credible fear determination.

13. Next, I asked Officer Quintera if she knew when Plaintiff would be removed from the country.

14. Officer Quintera stated that she did not know for sure, but that arrangements were being made to reunite Plaintiff with her child in order to deport them together.

15. Officer Quintera further advised that one or more ICE Officers were in contact with the Honduran consulate in order to arrange for her deportation, and that as soon as Plaintiff was reunited with her daughter, both of them would be quickly deported.

16. I thanked Officer Quintera for the update, and asked her to please send me a facsimile of Plaintiff's case file.

17. Officer Quintera agreed to do so, and we ended the call.

18. At approximately 2:43 PM CST on July 5, 2018, I received a facsimile from the Port Isabel Detention Center. Attached to this declaration as **Exhibit 1** is a true and correct copy of this faxed document. The document includes:

- a. The Record of Negative Credible Fear Finding and Request for Review by Immigration Judge (page 1), which illustrates that Plaintiff marked that she wished to not seek review of her adverse credible fear finding by an Immigration Judge;
- b. The Notice and Order of Expedited Removal against Plaintiff (page 2);
- c. The Record of Examination / Credible Fear Worksheet (pages 3-7); and,
- d. The Credible Fear Interview Notes prepared by Defendant Manning (pages 8-14).

19. On Sunday, July 8, 2018 at approximately 12 PM, my Haynes and Boone, LLP colleague Luis Campos and I arrived at the Port Isabel Detention Center to meet with Plaintiff and other clients. While at the facility, I asked a guard if I could speak with Plaintiff's assigned ICE Officer or any ICE attorneys assigned to the facility. I wanted to speak to these individuals about Plaintiff's imminent removal. The guard advised that these individuals were not available during the weekend.

20. Later that evening, I faxed two copies of a letter titled "Request for Reconsideration for Appeal of Negative Credible Fear Finding for [REDACTED] [REDACTED] [REDACTED] (A# [REDACTED]-[REDACTED]-[REDACTED] on behalf of my colleague Ms. Green, whose Form G-28 was on file with the Port Isabel Detention Center at the time of such faxes (such letters, the "RFR Letters"). Ms. Green addressed one of the RFR Letters to "Deportation Officer Assigned to A# [REDACTED]-[REDACTED]-[REDACTED] and the other RFR Letter to "Office of Chief Counsel for Port Isabel Detention Center".

21. Attached to this declaration as **Exhibit 2** are true and correct copies of the faxed RFR Letters, along with the cover sheets that I attached thereto. The RFR Letters provide a brief overview of the facts leading to Plaintiff's current imminent threat of removal, and requests that Plaintiff "be allowed to appeal her negative credible fear finding."

22. Having not received a response to the RFR Letters, my colleague Luis Campos and I called the Port Isabel Detention Center – Office of Chief Counsel (San Antonio) and the San Antonio Field Office on Monday afternoon, July 9, 2018. Mr. Campos left messages with both offices, during which Mr. Campos briefly explained Plaintiff's situation, provided both of our contact numbers, and requested that ICE return our call as promptly as possible.

23. At approximately 6:29 PM on Monday, July 9, 2018, I received a call from an ICE Officer in response to my facsimile of additional G-28 applications on behalf of Plaintiff. I asked the ICE Officer for contact information for the ICE Officer assigned to Plaintiff. He transferred me to another ICE Officer, who I understood to be named Officer Joel Flores at (956) 547-1763. The individual who I understood to be named Officer Flores did not answer the transferred call, and thus I left him a detailed voice message concerning Plaintiff's case, Plaintiff's desire to have her intended appeal honored, and our desire to stop pending removal proceedings. I further requested that he return my phone call as quickly as possible.

24. Mr. Campos and I called the individual who I understood to be named Officer Flores again at approximately 3:11 PM on July 10, 2018 and did not receive an answer. I again left another detailed voice message concerning Plaintiff's case and requested for him to call me back once he received my message.

25. As of the date and time of execution of this Declaration, I have not received any verbal or written response to the RFR Letters or our phone calls and voice messages, and upon information and belief, neither have any of my colleagues.

26. At approximately 9:14 AM on July 11, 2018, I called the Port Isabel Immigration Court at (956) 254-5700. I spoke to a woman that I understood to be the clerk of the court. I asked the woman if she could look up Plaintiff's Alien ID number and advise as to whether the Immigration Court had Plaintiff's case on file. After searching for Plaintiff's name, she advised that "there is nothing pending with the court yet." I asked the woman whether that meant that ICE had not referred the case to the Immigration Court, and she said "that's correct." I thanked her and ended the call.

\* \* \* \* \*

I declare under penalty of perjury that the foregoing is true and correct under the laws of the United States of America.

Executed on this 11<sup>th</sup> day of July, 2018 at 07:35 PM CT, in Dallas, Texas.



---

John Brent Beckert

**EXHIBIT 1**

**(attached)**

U. S. Department of Homeland Security  
U.S. Citizenship and Immigration Services

**Record of Negative Credible Fear Finding  
and Request For Review by Immigration Judge**

Alien File Number: [REDACTED]

**1. To be explained to the alien by the asylum officer:**

U.S. Citizenship and Immigration Services (USCIS) has determined that you do not have a credible fear of persecution or torture pursuant to § CFR 208.30 for the following reason(s):

- A.  You have not established a credible fear of persecution in your country of nationality, country of last habitual residence, or a country to which you have been ordered removed because:
  - You have not indicated that you were harmed in the past and you have not expressed fear of future harm.
  - There is no significant possibility that you could establish in a full hearing that the harm you experienced and/or the harm you fear is on account of your race, religion, nationality, political opinion, or membership in a particular social group.
  - You have not indicated that you were harmed in the past, and there is no significant possibility that you could establish in a full hearing that the harm you fear is well founded.
  - There is no significant possibility that you could establish in a full hearing that the harm you experienced or fear was/is sufficiently serious to amount to persecution.
  - There is no significant possibility that you could establish in a full hearing that the entity that harmed you or would harm you was/is an agent of the government or an entity the government was/is unable or unwilling to control.

AND

- You have not established a credible fear of torture in a country to which you have been ordered removed because you have not established that there is a significant possibility that:
  - You would suffer severe physical or mental pain or suffering.
  - The harm you fear would be specifically intended to inflict severe physical or mental pain or suffering.
  - The harm you fear would be inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity.
  - The harm you fear would be inflicted while you are in the custody or physical control of the offender.
  - The harm you fear would not arise only from, would not be inherent in, and would not be incidental to, lawful sanctions.
- B.  Considering the totality of the circumstances and all relevant factors, you have not established that your testimony is credible.

Therefore, you are ordered removed from the United States. You may request that an Immigration Judge review this decision.

If you request that an Immigration Judge review this decision, you will remain in detention until an Immigration Judge reviews your case. That review could occur as long as 7 days after you receive this decision.

If you do not request that an Immigration Judge review the decision, you may be removed from the United States immediately.

**2. To be completed by the alien:**

- Yes, I request Immigration Judge review of the decision that I do not have a credible fear of persecution or torture.
- No, I do not request Immigration Judge review of the decision that I do not have a credible fear of persecution or torture.

[REDACTED] \_\_\_\_\_ [REDACTED] \_\_\_\_\_ [REDACTED] \_\_\_\_\_  
 Applicant's Last Name/ Family Name (Print) Applicant's First Name (Print) Applicant's Signature

Manning \_\_\_\_\_ Brian \_\_\_\_\_ 6-28-18  
 Asylum Officer's Last Name (Print) Asylum Officer's First Name, (Print) Date

The contents of this form were read and explained to the applicant in the Spanish language  
 Interpreter used: LANGUAGE LINE # 24951 / TRANS PERFECT # 14218  
 By telephone (list interpreter service /ID number used \_\_\_\_\_).

In person (I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.)

\_\_\_\_\_  
 Interpreter's Signature Date



U.S. Department of Homeland Security

Notice and Order of Expedited Removal

DETERMINATION OF INADMISSIBILITY Event No: MCS1806000263

File No: [REDACTED]

Date: June 08, 2018

In the Matter of: [REDACTED]

Pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act), (8 U.S.C. 1225(b)(1)), the Department of Homeland Security has determined that you are inadmissible to the United States under section(s) 212(a)  (6)(C)(i);  (6)(C)(ii);  (7)(A)(i)(I);  (7)(A)(i)(II);  (7)(B)(i)(I); and/or  (7)(B)(i)(II) of the Act, as amended, and therefore are subject to removal, in that:

1. You are not a citizen or national of the United States;
2. You are a native of HONDURAS and a citizen of HONDURAS ;
3. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act;

GREGORY M. CALLANAN

BORDER PATROL AGENT

Name and title of immigration officer (Print)

Signature of immigration officer

ORDER OF REMOVAL UNDER SECTION 235(b)(1) OF THE ACT

Based upon the determination set forth above and evidence presented during inspection or examination pursuant to section 235 of the Act, and by the authority contained in section 235(b)(1) of the Act, you are found to be inadmissible as charged and ordered removed from the United States.

Name and title of immigration officer (Print)

Signature of immigration officer

Name and title of supervisor (Print)

Signature of supervisor, if available

Check here if supervisory concurrence was obtained by telephone or other means (no supervisor on duty).

CERTIFICATE OF SERVICE

I personally served the original of this notice upon the above-named person on \_\_\_\_\_ (Date)

Signature of immigration officer



Alien's File Number: [REDACTED]

**SECTION II:**

**BIOGRAPHIC INFORMATION**

2.1 [REDACTED]  
Last Name/ Family Name [ALL CAPS]

2.2 [REDACTED] 2.3 [REDACTED]  
First Name Middle Name

2.4 [REDACTED] 2.5 Female  
Date of birth [MM/DD/YY] Gender

2.6 None  
Other names and dates of birth used

2.7 Honduras 2.8 Honduras  
Country of birth Country (countries) of citizenship (list all)

2.9 El Negrito, Yoro, Honduras  
Address before coming to the U.S. (List Address, City/Town, Province, State, Department, and Country).

2.10 Latina 2.11 Evangelical 2.12 Spanish  
Applicant's race or ethnicity Applicant's religion All languages spoken by applicant

2.13 Marital status:  Single  Married  Legally separated  Divorced  Widowed  
2.14 Did spouse arrive with applicant?  Yes  No  
2.15 Is spouse included in applicant's claim?  Yes  No  
2.16 If currently married (including common-law marriage) list spouse's name, citizenship, and present location (if with applicant, provide A-Number):

2.17 Children:  Yes  No

2.18 List any children (Use the continuation section to list any additional children):

Date of birth (MM/DD/YY)	Name	Citizenship	Present location (if w/ PA, list A-Numbers)	Did child arrive with PA?		Is child included in PA's claim?	
[REDACTED] 2006	[REDACTED]	Honduras	Miami, FL	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
				<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
				<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
				<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
				<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Allen's File Number: [REDACTED]

2.19 Does applicant claim to have a medical condition (physical or mental), or has the officer observed any indication that a medical condition exists? If YES, answer questions 2.20 and 2.21 and explain below.  Yes  No

2.20 Has applicant notified the facility of medical condition?  Yes  No

2.21 Does applicant claim that the medical condition relates to torture?  Yes  No

2.22 Does the applicant have a relative, sponsor, or other community ties, including spouse or child already listed above?  Yes  No

2.23 If YES, provide information on relative or sponsor (use continuation section, if necessary):

[REDACTED]	Friend
Name	Relationship
[REDACTED]	[REDACTED]
Address	Telephone Number
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Permanent Resident
	<input checked="" type="checkbox"/> Other <u>unknown</u>

**SECTION III: CREDIBLE-FEAR INTERVIEW**

The following notes are not a verbatim transcript of this interview. These notes are recorded to assist the asylum officer in making a credible-fear determination and the supervisory asylum officer in reviewing the determination. There may be areas of the individual's claim that were not explored or documented for purposes of this threshold screening.

The asylum officer must elicit sufficient information related to both credible fear of persecution and credible fear of torture to determine whether the applicant meets the threshold screening. Even if the asylum officer determines in the course of the interview that the applicant has a credible fear of persecution, the asylum officer must still elicit any additional information relevant to a fear of torture. Asylum officers are to ask the following questions and may use the continuation sheet if additional space is required. If the applicant replies YES to any question, the asylum officer must ask follow-up questions to elicit sufficient details about the claim to make a credible-fear determination.

3.1 a. Have you or any member of your family ever been mistreated or threatened by anyone in any country to which you may be returned?  Yes  No

See Q&A

b. Do you have any reason to fear harm from anyone in any country to which you may be returned?  Yes  No

See Q&A

c. If YES to questions a or b: Was it or is it because of any of the following reasons? (Check each of the following boxes that apply.)  Race  Religion  Nationality  Membership in a particular social group  Political Opinion

See Q&A

Alien's File Number: [REDACTED]

3.2  At the conclusion of the interview, the asylum officer must read the following to applicant:

If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?

3.3  At the conclusion of the interview, the asylum officer must read a summary of the claim, consisting of the responses to Questions 3.1 a-c and information recorded in the Additional Information/Continuation section, to applicant.

\*\*\*\*Typed Question and Answer (Q&A) interview notes and a summary and analysis of the claim must be attached to this form for all negative credible-fear decisions. These Q&A notes must reflect that the applicant was asked to explain any inconsistencies or lack of detail on material issues and that the applicant was given every opportunity to establish a credible fear.

SECTION IV:

CREDIBLE FEAR FINDINGS

A. Credible Fear Determination:

Credibility

- 4.1  ~~There is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing.~~ Applicant found credible
- 4.2  Applicant found not credible because (check boxes 4.3-4.5, which apply):
- 4.3  Testimony was internally inconsistent on material issues.
- 4.4  Testimony lacked sufficient detail on material issues.
- 4.5  Testimony was not consistent with country conditions on material issues.

Nexus

- 4.6  Race
- 4.7  Religion
- 4.8  Nationality
- 4.9  Membership in a Particular Social Group

(Define the social group):

- 4.10  Political Opinion
- 4.11  Coercive Family Planning [CFP]
- 4.12  No Nexus

Credible Fear Finding

- 4.13  Credible fear of persecution established.
- OR
- 4.14  Credible fear of torture established.
- OR
- 4.15  Credible fear of persecution NOT established and there is not a significant possibility that the applicant could establish eligibility for withholding of removal or deferral of removal under the Convention against Torture.

B. Possible Bars:

- 4.16  Applicant could be subject to a bar(s) to asylum or withholding of removal (check the box(es) that applies and explain on the continuation sheet):
- 4.17  Particularly Serious Crime
- 4.18  Security Risk
- 4.19  Aggravated Felon
- 4.20  Persecutor
- 4.21  Terrorist
- 4.22  Firmly Resettled
- 4.23  Serious Non-Political Crime Outside the United States
- 4.24  Applicant does not appear to be subject to a bar(s) to asylum or withholding of removal.





A#: [REDACTED] Officer: Brian Manning (ZHN795) Date: 6/25/18  
 Name: [REDACTED] Location: Los Fresnos, TX Interpreter: Language Line  
 203986  
 Country: Honduras Means: Telephonic Start: 12:29 CT Stop: 12:23 CT  
 Interview language: Spanish No attorney/consultant

### CREDIBLE FEAR INTERVIEW NOTES

I am an asylum officer and I will be conducting your interview today through an interpreter, who has been placed under oath. She has affirmed that she will keep everything you say confidential. I will as well.

We are having this interview today because you have expressed a fear of returning to your country. We will discuss those fears to determine whether you are eligible for protection in the United States. The interpreter will now read to you information further explaining the purpose of this interview.

**Interpreter, please read Paragraph 1.28 of Form I-870 to the Applicant.**

The purpose of this interview is to determine whether you may be eligible for asylum or protection from removal to a country where you fear persecution or torture. I am going to ask you questions about why you fear returning to your country or any other country you may be removed to. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. US law has strict rules to prevent the disclosure of what you tell me today about the reasons why you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me why you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.

Officer	Interviewee
Do you understand what was just read to you?	Yes
Do you have any questions about it?	No
<b>Before continuing, I need to place you under oath. Please raise your right hand.</b>	
Do you affirm that you will tell the truth, the whole truth, and nothing but the truth during our interview?	Yes
<b>Thank you. You may put your hand down.</b>	
<b>I am going to ask you a few background and biographical questions, and then we will move to the part of the interview where you can tell me about the harm you fear in your country.</b>	
What is your full name?	[REDACTED]
What is your date of birth?	[REDACTED]
Have you ever gone by any other names, or used a different date of birth?	No
What language do you speak most fluently?	Spanish
Shortly after immigration authorities detained you, they provided you with information about the chance for certain	Yes

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people who are afraid of returning to their country to stay in the United States. You also received a list of attorneys who have said they may help people in your situation at little no or cost. Do you remember receiving that information and list?	
Did you understand that information?	Yes
Do you have an attorney or consultant assisting you?	No
You have the right to have an attorney or consultant join you on this call. Do you want to continue today without a lawyer or consultant?	Yes
Are you taking any medications?	No
Do you have any health issues that may affect your ability to answer my questions today, or that may require treatment at the facility?	No
Are you alone in the room right now?	Yes
In what city in your country did you live before you left?	El Negrito, Yoro, Honduras
What country are you a citizen of?	Honduras
Are you a citizen of any other country?	No
Have you lived in any other countries, or ever had permission to live in any other country?	No
What is your race or ethnicity?	Latina
Are you religious? If so, what is your religion?	Evangelical
Are you married, single, living with a partner? (Full name, DOB, citizenship, and location.)	Single
Do you have children? (Full name, DOB, citizenship, and location.)	One [REDACTED]/2006; Honduras; Somewhere in Miami – she came with me. The social worker said she's in Miami, but I don't know anything else.
So she was separated from you when you got her?	Yes
Do you need help locating her?	Yes.
If it's possible for us to do so, would you like to have your daughter's case joined to yours?	Yes
With whom would stay here in the United States if you were released from custody? (Name / Address / Relationship / Telephone	A friend [REDACTED]; Status



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/ Status.)	unknown
<b>We will now begin discussing the substance of your claim for protection. I will ask you some questions, and then you'll have a chance at the end of the interview to give me additional information, or to discuss anything we haven't yet covered. If you don't understand something, please ask for clarification. If don't know the answer to a question, just tell me you don't know, please.</b>	
Who exactly do you fear in your country?	My partner and the gang.
Which gang or gangs?	I don't know. I just know it was a gang.
Has the gang ever hurt you physically?	Just threatened me. I had a store – they were asking me for money.
Did your partner physically hurt you?	Yes. He beat me, mistreated me a lot. Hit me, insulted me.
What's his name?	[REDACTED]
On how many separate occasions did he physically hurt you, do you think?	Five or six. The last one was May of this year. He also humiliated me, offended me.
Did he ever force you to do things you didn't want to do?	Yes.
Like what?	Sometimes I didn't want to be intimate with him, and he would abuse me.
Do you mean he raped you?	Yes
Did you ever go to the police about him?	No, because they don't do anything.
What makes you think that?	I've seen cases of women who complain about their husbands, and the police don't do anything.
What causes the police to not do anything?	I don't know. Maybe they despise women. Discrimination. That must be it.
Are you aware of any connection between your husband and the police or any other authorities?	No
Do you have any reason to believe that they would want to help him hurt you, or that they'd protect him if you complained?	Yes
What is that reason?	In my country, what's valuable is money.
Are you saying your partner would be able to bribe the police?	Yes
What makes you think that?	I've seen many cases of it, where people who have money.... They don't do anything. But if you're poor, they look at you like you're worthless. They only pay attention to people who have money.
Are you aware of any specific examples of a person in your city being accused of raping	No

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or beating their partner, and bribing the police to stay out of trouble?	
Has your partner threatened to kill you?	Yes. That if I reported him or talked, he would harm my daughter.
Has he threatened to kill you?	Yes
What do you the police would do if you reported this death threat?	They wouldn't do anything.
Why do you say that?	They don't help humble people. They dismiss us.
Has your partner ever been arrested?	No
Did the gang threaten to kill you?	Yes
What did they say, exactly?	That if I didn't give them what they wanted, the amount they asked for, they would kill me and my daughter.
Why did he treat you this way?	I don't know
Did you report them to the police?	No
Why not?	Out of fear
You don't know the name of the gang?	No
Did you know or recognize the people who threatened you?	I only know that they had tattoos.
What do you think the police would do if you reported this death threat?	Nothing
Why do you say that?	The police in my country... they care very little what happens to us.
Are you aware of any connection between the people who threatened you and the police?	No
Do you think the police would allow them to hurt you if the police knew it was about to happen?	No one messes with the gang. The police are afraid of them.
Are you aware of any specific examples of the police failing to stop the gangs in your town from hurting someone?	No
What makes you think the police are afraid of the gangs?	They never arrest them, jail them. The gangs always end up winning.
Are you aware of anyone reporting a specific gang-related crime to the police, and then the police not doing anything about it?	No
If the police were walking by, and your partner or the gang was about to hurt you, and you yelled out to the police for help, what do you think the police would do?	They would arrest them for a little bit, then release them again.
What would motivate the police to release them if the police had just caught them doing something illegal to try to hurt you?	Maybe they bought them. Maybe they're afraid.
Do you have any reason to believe that your partner or these particular gang members	Just that if you go to the police, they have little interest in what's happening to you.

A#: [REDACTED] Officer: Brian Manning (ZHN795) Date: 6/25/18  
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have bought off the police, or that they would be able to do so?	
Have you ever reported anything to the police?	No
What would happen if you went back?	They could kill me
Who could kill you?	The gangs. That's who demanded money, and I couldn't pay.
Why do you think they decided to target you, of all people, for this extortion?	They saw me as a defenseless woman, alone.
Do you think you could live safely in another city in your country?	No. They'd look for me.
Are you afraid that your partner will hurt you in the future?	Yes
What are you afraid he'll do to you?	Kill me, perhaps.
Other than your partner and this gang, is there anything or anyone else you're afraid of in your country?	No
Have you ever been threatened or harmed by police or other government employees in your country, or do you fear being threatened or harmed by them?	No.
Have you ever been threatened or harmed, or do you fear being threatened or harmed, in your country because of your religion?	No
Have you ever been threatened or harmed, or do you fear being threatened or harmed, in your country because of your race, ethnicity or nationality?	No
Have you ever been threatened or harmed, or do you fear being threatened or harmed, in your country on account of your political opinion?	No
Is there any characteristic you have or anything about you that would make people in your country want to harm you?	No
Have you yourself ever harmed anyone for any reason?	No
Have you ever committed, or been accused of committing, a crime in any country?	No
Have you ever committed an armed or violent act, or an act that could be considered an act of terrorism?	No
Have you ever been a member of an armed group or a group that could be considered a terrorist group?	No
Have you ever been in the military or received any weapons training?	No
Have you ever provided any type of support	No

A#: [REDACTED] Officer: Brian Manning (ZHN795) Date: 6/25/18  
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- like food, housing, money, or transportation - to any person or group that could be linked to terrorism or violent acts?	
Is there anything else that is important to your claim that we have not yet discussed, or anything you want to add?	No
Did you understand the questions that I asked today?	Yes
Have you understood the interpreter today?	Yes

I'm going to take a few minutes to write a short summary of your testimony. While I'm doing that, the interpreter is going to read to you some information. When the interpreter is done reading, please don't hang up or put the phone down. When I'm done writing the summary, I'll read it to you.

Interpreter, Please read section 3.2 (I-870) to the applicant.

[If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?]

I've completed the summary. I will read the whole thing to you, and then when I'm done, I'll ask you to tell me if you think I've made any mistakes, or if there's anything else you think is important to add. Please note that this is just a summary: it doesn't contain all the details we've discussed. Those details are in my notes, and will be part of the record.

#### Summary of Testimony

Your partner beat you multiple times and raped you, and threatened to kill you. A gang threatened to kill you if you did not pay them extortion money, which you could not afford to do. You reported neither the gang nor your partner to the police. You are not aware of a connection between the police and your partner or the gang. You believe the police would intervene if they were aware that the gang or your partner was about to hurt you, but you think the police would release them soon thereafter out of fear or because the police could be bribed.

A#: [REDACTED] Officer: Brian Manning (ZHN795) Date: 6/25/18  
 Name: [REDACTED] Location: Los Fresnos, TX Interpreter: Language Line  
 203986  
 Country: Honduras Means: Telephonic Start: 12:29 CT Stop: 12:23 CT  
 Interview language: Spanish No attorney/consultant

Officer	Interviewee
Is this summary correct?	Yes
Are there any changes or additions you would like me to make, or is there anything else that is important to your claim that we have not yet discussed?	No

**This concludes the interview. You won't receive a decision on your claim today, but you will be informed soon. I wish you all the best.**

**EXHIBIT 2**

**(attached)**

haynesboone

Haynes and Boone, LLP  
2323 Victory Avenue, Suite 700  
Dallas, Texas 75219-7673  
Phone: (214) 651-5000  
Fax: (214) 651-5940  
www.haynesboone.com

Date: Sunday, July 08, 2018 8:32:00 PM

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To: PORT ISABEL DETENTION CENTER                      Company: IMMIGRATION AND CUSTOMS ENFORC  
Fax: 19565471716    Telephone: 19565471700  
Client/Matter: 0097900.NONBILLABLE REC

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From: Green, Carla  
Direct Telephone: 214-651-5305  
Direct Fax: 214-200-0604

Should you have any problem with this transmission, please call: 214-651-5305

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**Message:**

Please deliver to the Office of Chief Counsel for Port Isabel  
Detention Center.



haynesboone

July 8, 2018

*Via Fax*

Office of Chief Counsel for Port Isabel Detention Center  
Port Isabel Detention Center  
27991 Buena Vista Blvd  
Los Fresnos, Texas 78566

*Re: Request for Reconsideration for Appeal of Negative Credible Fear Finding for* [REDACTED]

Dear Counsel,

My name is Carla Green and I represent [REDACTED]. [REDACTED] is currently detained at the Port Isabel Detention Center ("PIDC") in Los Fresnos, Texas. As you may know, Ingris was informed of her negative credible fear finding via telephone on or about June 27, 2018. We understand that, while [REDACTED] was given the option to appeal the finding, [REDACTED] was not informed of the repercussions of not appealing her negative credible fear finding. Because she did not understand the consequences, coupled with her immense fear of being deported without her 12-year old daughter [REDACTED], [REDACTED] initially indicated that she did not plan to appeal the negative finding. [REDACTED] did so orally over the phone the same day she was informed of the negative finding, June 27, 2018.

However, upon returning to her cell, [REDACTED] was informed by other detained mothers of the consequences of not appealing the negative credible fear finding, i.e. that she would likely be deported back to Honduras and back to the persecution she fled from. Therefore, within about an hour of declining to appeal her negative fear finding, [REDACTED] wrote a letter requesting an appeal to the negative finding. [REDACTED] addressed the letter to "ICE" and placed the letter in a mailbox to which she was directed by Port Isabel officials and that was presumably set up by ICE officials.

The following day, on June 28, 2018, [REDACTED] was asked to sign a one-page English document that was later determined to be the "Record of Negative Credible Fear Finding and Request for Review by Immigration Judge." A PIDC official pointed with his finger where [REDACTED] should mark, which unbeknownst to [REDACTED], was a box that indicated that she did not want an Immigration Judge to review the decision that she does not have a credible fear of persecution or torture. The PIDC official did not translate this English document into [REDACTED]'s native language of Spanish nor did the PIDC official explain the repercussions of signing the document. To be clear, [REDACTED] does not speak or read English and did not understand what she was signing.

Haynes and Boone, LLP  
Attorneys and Counselors  
2323 Victory Avenue, Suite 700  
Dallas, Texas 75219-7672  
Phone: 214.651.6300  
Fax: 214.651.5940



As such, we are requesting that [REDACTED] be allowed to appeal her negative credible fear finding. We also strongly believe that, given the chance, [REDACTED] will be able to prove she has a credible fear of persecution and torture in her home country of Honduras. Please let us know as soon as possible whether [REDACTED] will be allowed to appeal her negative credible fear finding. If you have any questions or concerns or would like to discuss [REDACTED]'s case further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carla Green".

Carla Green  
Haynes and Boone, LLP  
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Dallas, Texas 75243  
214.651.5305  
956.545.9658  
[carla.green@haynesboone.com](mailto:carla.green@haynesboone.com)

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From: Green, Carla  
Direct Telephone: 214-651-5305  
Direct Fax: 214-200-0604

Should you have any problem with this transmission, please call: 214-651-5305

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Message:

haynesboone

July 8, 2018

*Via Fax*

Deportation Officer Assigned to A# 215-762-223  
Port Isabel Detention Center  
27991 Buena Vista Blvd  
Los Fresnos, Texas 78566

**Re: Request for Reconsideration for Appeal of Negative Credible Fear Finding for [REDACTED]  
[REDACTED] (A# [REDACTED])**

Deportation Officer Assigned to A# 215-762-223,

My name is Carla Green and I represent [REDACTED]. [REDACTED] is currently detained at the Port Isabel Detention Center ("PIDC") in Los Fresnos, Texas. As you may know, [REDACTED] was informed of her negative credible fear finding via telephone on or about June 27, 2018. We understand that, while [REDACTED] was given the option to appeal the finding, [REDACTED] was not informed of the repercussions of not appealing her negative credible fear finding. Because she did not understand the consequences, coupled with her immense fear of being deported without her 12-year old daughter [REDACTED], [REDACTED] initially indicated that she did not plan to appeal the negative finding. [REDACTED] did so orally over the phone the same day she was informed of the negative finding, June 27, 2018.

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Sincerely,

A handwritten signature in cursive script, appearing to read 'Carla Green', written in black ink.

Carla Green  
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Dallas, Texas 75243  
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[carla.green@haynesboone.com](mailto:carla.green@haynesboone.com)