

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

RICHARD ANDERSON TOME) Civil Action
CARBAJAL and ANGELINA JULIET) No.:
TOME CARBAJAL,)
by and through their next friend and)
mother, ELSA CARBAJAL,)
Plaintiff)
v.)
MICHAEL CHERTOFF, Secretary of)
U.S. Department of Homeland Security)
(DHS); JULIE L. MYERS, Assistant)
Secretary, U.S. Immigration and Customs)
Enforcement (ICE); JOHN P. TORRES,)
Director, Office of Detention and Removal)
Operations, ICE; MARC MOORE,)
ICE Field Office Director; GARY MEAD,)
Assistant Director of Detention and Removal)
Operations at ICE; SIMONA COLON, ICE)
Officer in Charge; JOHN POGASH, ICE)
National Juvenile Coordinator,)
Defendants.)
_____)

DECLARATION OF ELSA CARBAJAL

Elsa Carbajal makes the following declaration under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. "My name is Elsa Carbajal. I was born in Honduras and was raised in Honduras. I have never used any other names, and I have never hurt anyone. I am 24 years old. I have 2 children and their names are Richard Tome and Angelina Tome, both born and raised in Honduras. I don't have any documents that allow me to stay in this country, but I have a great fear of returning to my country, I am afraid for my children and for myself and for my children. For the following that I am about to write.

2. What happened to me is the worst thing that can happen to a woman. For me it is very difficult to recount it, as I feel a terrible terror in remembering it.
3. Madame judge, with all the respect that you deserve I ask for a few minutes to tell you what a disgrace has happened in my life.
4. In my country I was very happy with my two children, a did not need anything from anyone to be well off, and my children did not need anything form other people other than me. I worked tranquilly in my country. And then everything happened in the following way.
5. On the way home I was walking calmly home when on the road there was a man standing, but it never occurred to me that this man would harm me, when I walked passed him he walked very fast. Suddenly I felt he grabbed my hair and he put his weapon at me head, I was terrorized and thought that he would rob what I had in my wallet, but I did not think he would do what he did. It was the destruction of my life. He Violated Me! Maltreated.
6. That man mad me walk very far from my house,. He pulled me with great force and shouted '[perra] shut up,' because I was screaming at him not to kill me, that he could take whatever money I had, but no. He said he would kill me and he passed his gun by my head, my breast, he shook it at me and shouted shut up, you [perra hija de puta]
7. I was trembling and horrified; I begged him not to do me harm. He lives nearby to my home, but I had never spoken to him. I went from my work to home and from my home to church. And I have never harmed anyone.

8. When he began to take my clothes off I screamed for him not to harm me, for the love of God. But he just hit me, he raped me both vaginally and anally. I do not want to write dirty words because I do not want to show any disrespect.
9. Madame Judge, he introduced his gun into my vagina, he passed the gun throughout my body, he played with my body and he laughed and he kept mistreating my physically. Madame Judge, please help me I don't want any more harm done to me. I have two wonderful children who need me.
10. When he raped me I asked him why, why, if I had never done anything to anyone, much less to him. I never spoke with anyone or anything, but he just laughed at shouted shut up [perra], you deserve this and so much more. And he started to move his gun and, I shouted at him not to kill me, please don't kill me I have two children and he began to laugh a he started to play and told me, should I kill you or not kill you. And I begged him no, please, and I went down on my knees and begged him not to kill me. And he told me am your god. Your life belongs to me, I am the only one who gives orders to you, [perra]. He told me do you want an opportunity and I said yes, please don't kill me. And he said I am going to give you an opportunity.
11. I said please I will never tell anyone what happened and he said shut up! I didn't say you could talk. Shut up, if you ever tell anyone I will kill you, you won't have even finished telling someone what happened when I kill you. And if someone realizes what happened I will kill you and your two children. And don't think I'm going to kill them, I will do the same thing to your two children that I just did to you now. No, no, I will never tell anyone anything, nothing never. Please no, I will never tell anyone, the

- children are little angels I can't have anything happen to them. Well, you know, I will kill you along with your children.
12. Suddenly he hit me a punch and he left and I stayed there for awhile crying. Then I went home, death in life.
 13. I didn't hear anything, I shut myself inside my house. I took a shower and cried, cried, cried, and even still I cry. Nobody deserves such evil, such a great atrocity. This is the worst thing that could happen to a woman, it is such a terrible pain, such a trauma for all your life.
 14. After that I went to a friend's house, at soon the man showed up and he terrorizes me. Now that terror is even greater. That was when I had no other exit, because no parent would have permitted so much pain and worse even doing harm to my children for the love of God! How can such terrible people exist that can play with our lives and destroy them. It is horrible and my heart hurts very much.
 15. When I left my country nothing else mattered except getting my children to safety. When I left my country I felt he was always behind me, that he would that he would take my children and that he would do the same thing to them that he did to me.
 16. It took me nearly two months to get here. I didn't know anyone, I thought anyone that came near me was going to harm me. I don't remember days, hours, months, nothing that my mind nor my heart could make calm.
 17. Only to be sufficiently far away from my country to save my children. When I got here, the immigration agent brought me to this Center, when I came into this place, I felt that if I had to come here to make my children safe, and since I arrived here I feel somewhat secure and only you can protect me.

18. When I thought everything was over, then they did some tests, not because they thought I was pregnant, but because they do the same tests to everyone. When we came here the nurse told me that I was pregnant, and I felt more scared, terrorized, I told her it could not be so. I cried a lot and I was frozen and I couldn't speak. They took me to an assistant of the Clinic, I couldn't speak but the doctors examined me. I told her what had happened and she measured my uterus and told me, I'm sorry but you are currently pregnant and you have to be strong for your baby that is on the way so that the baby will be strong and healthy. But what we never would have imagined was that unfortunately the baby was dead. The next week they took me to a clinic to give me an ultrasound, and in the ultrasound they didn't hear a heartbeat, and they did not know why, but at that moment, the measurements were exact, and she was very sorry.
19. For me this is another trauma in my life, it hurt my heart, first I was raped, and then threatened, I fled from my country where I was doing well, the trauma my children have suffered for everything that has happened, they have also suffered from this change in the lives we had, suddenly to abandon everything, to be fleeing, and now being in this place.
20. After they did the ultrasound the next week they took me again to the Clinic, and they gave me an abortion. From that day, it is terrible, days pass that I will never stay awake, my life is a nightmare, Madame Judge.
21. Since that day, I see a psychiatrist that is helping me move forward. Madame Judge, my terror in returning to my country is because of the harm that he'll do to my children.

22. In Honduras that man has a father who works with the police, and I am sure that if I return to Honduras, they will harm my family, who are my son Richard Tome who is 5 [sic] years old and Angelina Tome who is 3 years old, and for them I have to fight and stay ahead.
23. Here we are protected the three of us, but they [my children] do not want to stay here. In the nights they cry and they ask me when are we going to leave here. They are having a terrible experience. My three year old daughter cries a lot and she tells me, "Mommy where is God [Diosito] that he doesn't want to help us, mommy tell God [Diosito] to come and take us out of here and take us to his house. Mommy, why do they have us as prisoners if we have never killed anybody."
24. This hurts my heart, I cannot take seeing my children suffer more.
25. Madame Judge, I beg you in the name of everything that is holy help me, help me. I always speak with a social worker and she tells me, Elsa, you are a survivor, and unfortunately, many women have gone through the same experience as you and sadly not all of them survive, and I have to be more strong for my children, they only have me, and I only have them. And you have my life and the lives of my children in your hands, Madame Judge. We only have you, you decide what will happen in my life, in my future, and I beg you to help me.
26. In this Center my children are very sad, they think that they have done something wrong to be imprisoned in this jail. They ask me why no one is helping us, they tell me to ask God to get us out of here.

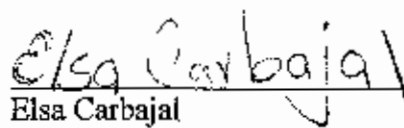
27. Madame Judge, Only I feel safe here, they don't know why I brought them here, they ask me over and over again. Without a doubt they are experiencing a great psychological, moral, sentimental trauma.
28. Here the children are very limited, being stuck inside, the uniforms, the shirts, the food. My little girl will turn 4 years old April 19 and she weighs (27/pounds) and she is not gaining weight. Here they only give us twenty minutes to eat and if we have not finished the officials say they are not interested, the time to eat has finished, and we have to go in line. And if the children have not finished eating, they tell us to throw away the food and get going. In some cases they have grabbed the food and thrown it in the trash in front of the children, and they cry because they say they are hungry.
29. In other occasions when they sometimes give us cookies, my son wants to go and eat them, but they take them away and throw them in the trash. When this happens the children cry and cry. And they speak harshly to the children and they can't take anything with them and they are scared.
30. In some occasions, the children are afraid of the officials. On other occasions it is so cold, but they do not let us get blankets, yet they walk around with gloves. And if we take out the blankets they shout at us that we can't take out the blankets. But they go around very well dressed.
31. They wake us up at 5:45 or 5:30am. And at 6 am we have to have finished bathing ourselves. After that we have to eat in 20 minutes, then return to the pod to do nothing, they don't allow us to sleep, only to sit and wait for the hours, days, months to pass.

32. Here it is cold and the children only have the right to have one sweater, three shirts, 3 pairs of underwear, 3 pants. We cannot have anything else here. I had two extra sweaters and they came in to search my room and they took them. And they told me it is not permitted to have more. They do not care that we are cold. They don't care if we eat or if we don't eat.
33. One day I was where the doctor is and lots of children were drawing with crayons. And an official went where they were and brusquely grabbed them. The official grabbed the papers that my daughter drew and my daughter was very afraid. In this moment, the social worker came in and asked what was going on, and when we told her she got very angry and told the official to give back the drawings and never to do that again because these are undefended children who have harmed no one and that is no way to treat children. To me, Kara is an angel.
34. Madame Judge, not just that happens here, but rather much much more. The thing that hurts me most is that the majority of the time the children are unhappy.
35. Imagine it, Madame Judge, what they are going through. And now I am begging you, you are the only person in my life who I have in my life right now to help me live a new and hopefully happy life. I speak to you in truth and with my heart in my hand.
36. May God bless you today, tomorrow, and always."

This declaration has been read back to me in Spanish, and it is a true and accurate transcription of my statements. I declare under penalty of perjury that the foregoing is true and correct.

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

EXECUTED on March 1 2007.

A handwritten signature in cursive script that reads "Elsa Carbajal". The signature is written over a horizontal line.

Elsa Carbajal
Williamson County, Texas