

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

ROSA ELIDA CASTRO, *et al.*,

Appellants

v.

**U.S. DEPARTMENT OF HOMELAND
SECURITY (“DHS”), *et al.*,**

Appellees

NO. 16-1339

**PETITIONERS-APPELLANTS’ OPPOSITION TO GOVERNMENT
MOTION FOR LEAVE TO TRANSFER
KAREN MARGARITA ZELAYA ALBERTO AND S.E.A.Z**

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**Application for admission forthcoming*

The government has failed to show any legitimate need for transferring Petitioner-Appellant Karen Margarita Zelaya Alberto and her 6-year-old boy, Petitioner-Appellant S.E.A.Z., to Texas. As the accompanying declarations and exhibits show, the government's accusations are untrue. Indeed, the Berks detention center's own staff have repeatedly stated in their monthly reviews that Karen "shows respect towards staff" and is a "good mother," Declaration of Karen Margarita Zelaya Alberto ("Zelaya Alberto Declaration"), Exhibit A – and these same reviews reflect that she is in no way a threat to anyone.

The real reason that DHS filed this motion is because Karen has worked to raise awareness – including recently speaking to the media – about the plight of the families, like hers, that have been detained for as long as a year and because she is seeking federal court review of her asylum case. The government has therefore filed this retaliatory motion to transfer Karen and her little boy to Texas to silence and intimidate her and the other Petitioners in this case.

Karen and her 6-year-old boy have already suffered enormous trauma from the violence they faced in El Salvador, their difficult journey to the United States, and their detention for a year. Moving this little boy for the third transfer in twelve months' time will cause further trauma, *see* Declaration of Dr. Alan Shapiro ("Shapiro Declaration") at ¶¶ 15-17, and serve no legitimate governmental

purpose. The Court should deny the Government's baseless and retaliatory motion.¹

ARGUMENT

To justify the transfer of a habeas corpus petitioner, the government bears the burden to demonstrate “the need for a transfer.” Fed. R. App. P. 23(a). The government, of course, has no legitimate interest in retaliating against detainees – particularly civil detainees who have been charged with no crime – for their communications with the media and the filing of a habeas lawsuit to obtain review of their asylum hearings.

A. The Government Has Not Demonstrated Any Need for Transfer

The government's motion alleges that Karen has engaged in misconduct posing “an imminent threat” to the facility and its detainees. Government Motion (“Mot.”) at 5. It is clear even on the face of the government's filing – which heavily relies on such minor incidents as a single fire drill incident from over six months ago and concerns that women spent time outside when it was hot – that there is no such threat. Moreover, the government has manufactured the supposed “imminent threat” based on factual misrepresentations concerning, for example, Karen's attempt to help care for a three-year-old toddler the government left in detention without his mother. The government also attempts to paint Karen as a

¹ Petitioners intend to seek rehearing en banc. Petitioners therefore respectfully submit this opposition to the government's motion.

bad mother – but the detention facility’s own contemporaneous records demonstrate that the government’s allegations are false.

1. Detention Center Staff Reviews Have Consistently Assessed Karen’s Behavior in Positive Terms.

Contrary to the government’s allegations that Karen has engaged in “disruptive, rule-breaking behavior,” Mot. at 4, and “poses an imminent threat of disruption to facility operations . . . and an imminent threat to the health and safety of other residents,” *id.* at 5, she has received uniformly positive assessments of her behavior from the Berks staff.

Each month that she has been detained at Berks, Karen has received an evaluation (a “Monthly Review”) that includes an assessment of her behavior (as well as of her interactions with her son). Zelaya Alberto Declaration at ¶ 5 and Exhibit A. Every Monthly Review that Karen has received since arriving at Berks has been attached as Exhibit A to her Declaration. These Monthly Reviews are completed by a caseworker – a county employee who is a member of the Berks staff. *Id.*

Not a single one of these reviews identifies any misconduct, nor remotely suggests any of the allegations that the government now says make Karen an “imminent risk.” For example, the Monthly Review dated August 24, 2016 – the same day that the government filed its motion – cited *no* behavior problems.

Zelaya Alberto Declaration, Exhibit A (Monthly Review 7/26/16 to 8/24/16). In

the review from the previous month, dated July 24, 2016, the caseworker stated that Karen's behavior "remains positive" and that "[s]he shows respect towards staff[.]" *Id.* (Monthly Review 6/27/16 to 7/25/16). The other monthly reviews likewise and consistently show that Karen has remained well-behaved throughout her time in detention at Berks:

Monthly Review 5/27/16 to 6/26/16: "Behavior in the program remains positive. . . . She shows respect towards staff[.]"

Monthly Review 4/27/16 to 5/26/16: "Karen continued to demonstrate acceptable behavior in the program."

Monthly Review 3/27/16 to 4/26/16: "Karen's behavior remains acceptable."

Monthly Review 2/27/16 to 3/26/16: "She remains sociable throughout the day with other residents and staff within the program."

Monthly Review 1/28/16 to 2/26/16: "Karen[']s behavior and interactions have been acceptable."

Monthly Review 12/28/15 to 1/27/16: "Karen continues to display positive behaviors and interactions. She is pleasant and sociable with the other residents and respectful of staff. Karen abides by the program rules and regulations[.]"

Monthly Review 11/28/15 to 12/27/15: "Karen demonstrates positive behaviors within the program. She socializes nicely with the other residents and is respectful towards staff. She follows the rules of the program[.]"

Id.

Simply put, the government's newly minted accusations cannot be reconciled with the facility's own contemporaneous statements.

2. Detention Center Staff Reviews Have Uniformly Assessed Karen's Interactions with her Son in Positive Terms, and the Government's Concerns About Her Parenting are Unfounded.

Similarly baseless are the government's suggestions that Karen is a bad parent. The same reviews discussed above also provide an assessment of Karen's interactions with her now-6-year-old son. Each of these reviews has provided Karen with a positive evaluation of her treatment of her son.

For example, the Monthly Review dated April 26, 2016, describes Karen as "a loving and responsible mother to her young son," noting that "Karen attends to her son[']s needs and provides him with guidance when necessary." Zelaya Alberto Declaration, Exhibit A (Monthly Review 3/27/16 to 4/26/16). *See also id.* (Monthly Review 11/28/15 to 12/27/15) ("Karen displays loving and responsible interactions with her son . . ."); *id.* (Individual Service Plan 10/28/15 to 11/27/15) (statement signed by caseworker and ICE officer describing Karen as "a good mother to her son"). The most recent review, dated the same day the government filed its motion, cites *no* problems with respect to her parenting or discipline of her son, *id.* (Monthly Review 7/26/16 to 8/24/16), nor does the review from the month before, *id.* (Monthly Review 6/27/16 to 7/25/16). *See also, e.g., id.* (Monthly Review 5/27/16 to 6/26/16) ("Karen . . . provides him with redirection when necessary."); *id.* (Monthly Review 4/27/16 to 5/26/16) (similar); *id.* (Monthly

Review 2/27/16 to 3/16/16) (similar); *id.* (Monthly Review 1/28/16 to 2/26/16) (similar).

Likewise unfounded is the government's suggestion that Karen is an inattentive parent. The reviews provided by the caseworker indicate that Karen "spend[s] a lot of time" with her little boy "throughout the day." *See* Zelaya Alberto Declaration, Exhibit A (Monthly Review 4/27/16 to 5/26/16); *see also, e.g., id.* (Monthly Review 3/27/16 to 4/26/16) (similar); *id.* (Monthly Review 2/27/16 to 3/26/16) (similar); *id.* (Monthly Review 1/28/16 to 2/26/16) (similar); *id.* (Monthly Review 12/28/15 to 1/27/16) (similar); *id.* (Monthly Review 11/28/15 to 12/27/15) (similar). The government alleges that she has not supervised her son on certain occasions, *see* Declaration of Jennifer D. Ritchey ("Ritchey Declaration") at ¶ 11, but – consistent with her Monthly Reports – Karen does not remember Berks staff raising those concerns, Zelaya Alberto Declaration at ¶ 56. In any event, any expectation that a single parent detained for months on end with a child would be able to directly supervise the child all the time is unrealistic, given any number of basic needs that a parent would have (using the restroom, taking a shower, or holding a sensitive conversation with an attorney, for example). *See* Declaration of Carol Anne Donohoe ("Donohoe Declaration") at ¶ 7. As a result, the mothers at Berks understandably sometimes "share childcare responsibilities, relying on other mothers to help supervise their children from time to time." *Id.*

The Berks caseworker's uniformly positive assessment of Karen's parenting was recently confirmed by Dr. Alan Shapiro, Assistant Professor of Clinical Pediatrics at Montefiore Medical Center and the Albert Einstein College of Medicine. Dr. Shapiro observed after visiting with the family recently that "[w]hile it is challenging to care for 6-year-old children under the best of circumstances, it was obvious to me how good Karen's parenting skills were, especially under such duress as being in detention for one year. She showed affection, patience yet the ability to decisively control his behavior while he was in the room with [me.]" Shapiro Declaration at ¶¶ 2-4, 11.

3. The Government's Specific Allegations Are Untrue and Do Not Justify a Transfer

The government makes a series of specific allegations against Karen. Notably, Berks has a written procedure for handling alleged misconduct by detainees. *See* Ritchey Declaration, Exhibit A at 24-29. Those procedures require a written notice of charges, an administrative hearing, and due process rights. *Id.* Tellingly, the facility did not pursue such formal proceedings against Karen. Zelaya Alberto Declaration at ¶¶ 24, 28, 38, 41, 52. As explained below, its allegations are false.

a. Karen’s Assistance Caring for a 3-Year-Old Boy Detained Without His Mother

The government’s motion alleges that Karen attempted to “force feed” a child on June 24, and that she “gathered” a group of women outside the medical unit when the staff put the little boy inside. Ritchey Declaration at ¶ 10.c. These allegations are false.

The child referred to by the government was a three-year-old boy who the government left at the detention center, without his mother or any other family member, when his mother was hospitalized. Zelaya Alberto Declaration at ¶ 30; Declaration of Wendy Amparo Osorio Martinez (“Osorio Martinez Declaration”) at ¶¶ 4-5; Declaration of Jethzabel Maritza Aguilar Mancía (“Aguilar Mancía Declaration”) at ¶ 7; Donohoe Declaration at ¶ 8. Understandably, the other mothers wanted to help this frightened toddler, particularly when it appeared that the staff was not providing adequate care and comfort for a three-year-old toddler who had been separated from his mother. Donohoe Declaration at ¶ 8 (explaining that “I . . . learned that the staff at Berks was not providing the toddler with a daily change of clothes, failed to bathe him, and were not taking sufficient steps to comfort and care for such a young child who was separated from his mother.”); Osorio Martinez Declaration at ¶ 5; Aguilar Mancía Declaration at ¶¶ 7-8. The day before the alleged incident, Karen helped to feed and care for the toddler, with the

knowledge and apparent gratitude of the staff. Zelaya Alberto Declaration at ¶¶ 30-31; Aguilar Mancía Declaration at ¶ 9; Donohoe Declaration at ¶ 10.

On June 24, Karen saw that the three-year-old was refusing to eat when a staff member was trying to feed him. Zelaya Alberto Declaration at ¶¶ 32-33; Osorio Martínez Declaration at ¶¶ 4, 6; Aguilar Mancía Declaration at ¶ 10. When Karen approached to offer her assistance, the staff member took the little boy away and locked him inside the medical unit. *Id.* At no time did Karen attempt to force feed the child. *Id.* Notably, the little boy's mother subsequently expressed gratitude that Karen had helped care for him during the mother's hospital stay. Donohoe Declaration at ¶ 10.

Although several women, including Karen, went to the medical unit out of concern for the little boy, who had been screaming, at no time did Karen direct anyone to gather there. Zelaya Alberto Declaration at ¶ 35; Osorio Martínez Declaration at ¶ 7; Aguilar Mancía Declaration at ¶ 11.

Because she was worried for the boy, Karen called her attorney; that attorney subsequently reported concerns about the care of the boy to a state agency, which then investigated. Zelaya Alberto Declaration at ¶ 36; Osorio Martínez Declaration at ¶ 7; Aguilar Mancía Declaration at ¶ 11; Donohoe Declaration at ¶¶ 8-9. The government's motion appears to suggest that Karen's report of her concerns for this three-year-old child was *itself* misconduct. *See*

Ritchey Declaration at ¶ 10.c; Zelaya Alberto Declaration at ¶ 37. The government cannot, however, transfer Karen out of displeasure that she relayed her concerns about the treatment of this toddler to her attorney.

Karen's Monthly Review for this period – which was completed two days later on June 26 – says nothing about any alleged force feeding or gathering of other women. Zelaya Alberto Declaration, Exhibit A (Monthly Review 5/27/16 to 6/26/16) (“Behavior in the program remains positive. . . . She shows respect towards staff[.]”) Significantly, the first time that she became aware that the government had any concern about her behavior on June 24 was when the government filed its motion. Zelaya Alberto Declaration at ¶ 38.

b. The Weather on a Summer Day

The government alleges that Karen refused to comply with an order to go inside on August 14 due to heat conditions, Ritchey Declaration at ¶ 10.e, but she never understood that she was required to go inside, particularly given that detainees at Berks are allowed to go out of doors during the day if they choose to do so. Zelaya Alberto Declaration at ¶¶ 42, 46. Nor did other mothers understand it as anything but a suggestion. Osorio Martinez at ¶ 10. The heat did not bother Karen, given that she is from Central America, and many other detainees likewise chose to remain outside. Zelaya Alberto Declaration at ¶ 46.

The government fails to mention a critical fact about August 14. The morning of the alleged incident, the mothers and children were outside praying and participating in a peaceful nearby vigil organized by religious leaders and community members wishing to express support for the detained families and to oppose their prolonged detention. Zelaya Alberto Declaration at ¶ 44; Osorio Martinez at ¶ 9; Donohoe Declaration at ¶ 13. The weather during the days leading up to August 14 was hotter than on August 14, but notably any concerns about potential heat exposure were not raised until after the vigil had started. Zelaya Alberto Declaration at ¶ 43; Osorio Martinez at ¶ 11.²

Karen's Monthly Review for that period, which is dated the same day that the government filed its transfer motion, says nothing about this incident. Zelaya Alberto Declaration, Exhibit A (Monthly Review 7/26/16 to 8/24/16) ("Behavior in the program remains adequate."). The first time that she learned that the government had any concern about this interaction on August 14 was when the government filed the motion. Zelaya Alberto Declaration at ¶ 48.

² Data published by the National Weather Service confirms that the high temperature in Reading, Pennsylvania (minutes away from Berks) on the two previous days was higher than it was on August 14th. Moreover, that data indicates that the high temperature on August 14 did not occur until 3:32 p.m., over four hours after the incident at issue here. *See* Daily Climate Report for Reading, PA, 8/12/16-8/14-16, *available at* <http://w2.weather.gov/climate/index.php?wfo=phi>; Fed. R. Evid. 201.

c. The Fire Drill on February 29

The government relies on a fire drill held over six months ago, on February 29, alleging that Karen refused to walk down a stairwell when directed, and persuaded other residents to do the same. Ritchey Declaration at ¶ 10.a. In fact, the stairwell in question was too crowded for Karen to proceed, which she explained to Berks staff at the time. Zelaya Alberto Declaration at ¶ 23. She did not tell the other women to act in any particular way during the drill. *Id. See generally* Aguilar Mancia Declaration at ¶ 5; Osorio Martinez Declaration at ¶ 3. She has participated in approximately 18 fire drills since then without incident. Zelaya Alberto Declaration at ¶ 24. None of her Monthly Reviews have indicated any concerns about her ability to follow directions during a fire drill (or at any other time). Zelaya Alberto Declaration, Exhibit A. The first time that Karen became aware that the government believed she disrupted the February fire drill was when the government filed its motion. Zelaya Alberto Declaration at ¶ 24.

d. The Request To Clean a Bathroom on March 6

The government also relies on an incident dating from March 6, involving a request to clean a common bathroom. Ritchey Declaration at ¶ 10.b. The conversation in question was brief and ambiguous; to the extent cleaning the bathroom was mandatory, Karen did not understand that. Zelaya Alberto Declaration at ¶¶ 26-27. *See also id.* at ¶ 27 (explaining that “I understand some

English but not perfectly, so there may have been a misunderstanding”). Karen’s Monthly Review for that period says nothing about this incident. Zelaya Alberto Declaration, Exhibit A (Monthly Review 2/27/16 to 3/26/16). None of her reviews say anything about any concerns regarding her completion of chores. *Id.*, Exhibit A. The first time that she learned that the government had any concern about her response on March 6 was when the government filed its motion. Zelaya Alberto Declaration at ¶ 28.

e. Standing Near a Door on July 19

The government alleges that Karen blocked the doorway to another woman’s room on July 19. Ritchey Declaration at ¶ 10.d. The woman in question had asked Karen to come speak with her. Zelaya Alberto Declaration at ¶ 40. When the staff asked her to move, she complied, and did not prevent anyone from entering or exiting the room. *Id.* Karen’s Monthly Review for that period, dated six days after this alleged incident, says nothing about it. Zelaya Alberto Declaration, Exhibit A (Monthly Review 6/27/16 to 7/25/16). The first time Karen learned that the government had any concern about this interaction on July 19 was when she received the government’s motion. Zelaya Alberto Declaration at ¶ 41.

f. Other Concerns

As set forth in full in the accompanying declarations, the other allegations offered by the government are likewise false and misleading. For example, the

government alleges that Karen has interrupted private legal meetings and orientations, Ritchey Declaration at ¶ 10.g, but that is not true, Zelaya Alberto Declaration at ¶ 52; Donohoe Declaration at ¶¶ 5-6. The government also alleges that Karen left the building on August 15 against instructions, Ritchey Declaration at ¶ 10.f, but that is not true, Zelaya Alberto Declaration at ¶ 49.

B. The Government’s Real Reason for Transfer is Retaliation

Karen thus is, as her Monthly Reviews reflect, a rule-abiding detainee and a caring mother. The accompanying declarations show that the true reason for the government’s motion is retaliation for Karen’s participation in prayer vigils and other peaceful activities drawing attention to the prolonged detention of the children at Berks, as well as her decision to seek court review of her asylum case. Karen, like the other women and children involved in this case, has endured a long stay in detention – in her case, a year as of this week – because she is terrified of returning to her home country and is seeking a new asylum interview. Zelaya Alberto Declaration at ¶¶ 3, 14. But, as Karen has explained, she and the other women “see our children suffering and it breaks our hearts.” *Id.* at ¶ 15. The women have therefore asked the government to release them and their children, with any appropriate conditions (such as ankle monitors), while they continue to seek new asylum hearings through this habeas litigation. *Id.* at ¶ 14. They have

also participated in a fast, prayer vigils, and other peaceful activities to draw attention to their children's long detention. *Id.* at ¶ 15

Karen has been the face and voice of some of these efforts. As is permitted by the Berks rules, *see* Donohoe Declaration at ¶ 14, Karen has spoken to media representatives on a number of occasions this month, August 2016, and her statements have recently been published on television and the radio, and in newspapers, Zelaya Alberto Declaration at ¶ 16. Some of the reports identified her as “a mother of a 6-year-old” or as “Margarita,” her middle name. *Id.* It is, however, clear that Berks staff know that Karen has given these interviews. The day after one interview, for example, a staff member pointedly called her “Margarita”; no one at Berks had ever called her that before. *Id.* at ¶ 17; Donohoe Declaration at ¶ 14 (“I believe that staff and ICE officers at Berks are aware of [Karen's] media activities.”).

Likewise, Karen has spoken on behalf of the other women in recent meetings with ICE Field Office Director Thomas Decker regarding their decision to fast. *See* Zelaya Alberto Declaration at ¶ 18 (“Because some of the other women are scared to speak up, I often spoke on behalf of the other women at those meetings”); Aguilar Mancía Declaration at ¶ 4 (“Karen is brave and willing to speak on behalf of other women who are more afraid.”). The government says that Director Decker held these meetings to “discuss and resolve any issues,” Mot. at 5,

but in those meetings he threatened and intimidated the mothers who had filed habeas petitions, Zelaya Alberto Declaration at ¶ 19; Osorio Martinez Declaration at ¶ 12; Aguilar Mancia Declaration at ¶ 12.

During those meetings – at which counsel for the women was not permitted to be present – Director Decker said that he could not release these families because of their pending federal court cases. *See* Zelaya Alberto Declaration at ¶¶ 18-19 and Exhibit B; Osorio Martinez Declaration at ¶ 12; Aguilar Mancia Declaration at ¶ 12. Almost immediately after these meetings, he released others who were participating in the fast – women who had also been ordered removed with their children based on negative credible fear determinations but had not filed habeas petitions. *See* Zelaya Alberto Declaration at ¶ 21; Osorio Martinez Declaration at ¶ 12; Aguilar Mancia Declaration at ¶ 12. This recent decision to release these similarly situated non-habeas families is yet another example illustrating the government’s strong displeasure with Karen and the other Petitioners for choosing to seek review of their asylum claims before this Court.³

Director Decker also threatened that if the women did not stop fasting, he would, among other things, send them to Texas. Zelaya Alberto Declaration at

³ The government says that the detention of Karen and the other women is mandatory because they have been issued expedited removal orders, implying that, even if it wanted to do so, it could not release these families pending the outcome of this litigation. Mot. at 4. But, as noted above, the government does release people with expedited removal orders and thus recognizes it has the power to do so.

¶ 21; Osorio Martinez Declaration at ¶ 12; Aguilar Mancía Declaration at ¶ 12.

This motion appears to be the government's attempt to make good on that threat of retaliation.

As the comments by Director Decker and Berks staff make clear, the government is unhappy with these women's peaceful activities in the hopes that they and their young children will be released while they seek new asylum hearings through this case. Berks staff and ICE view Karen as a leader among the other women, and knew that she had spoken on behalf of those women with various media organizations. Donohoe Declaration at ¶ 15; Zelaya Alberto Declaration at ¶ 18; Aguilar Mancía Declaration at ¶ 4. The government's motion is an attempt to punish and silence Karen, separate her from the other women, and intimidate all of the Petitioners.

C. Transfer Will Harm Karen and Her Little Boy

Finally, the transfer the government has requested will result in serious harm to Karen and her young son. Karen's principal attorneys are near Berks and a transfer to Texas will make it much harder for her to meet with them. Zelaya Alberto Declaration at ¶ 59.

Even more troublingly, Dr. Shapiro, the professor of pediatrics, has explained that the move to Texas "will have deleterious short-term and long-term effects on [the] health and psychological well-being" of Karen's six-year-old son:

S.E.A.Z. already suffers from Chronic Post-Traumatic Stress Disorder. In his very short life, he has been exposed to multiple traumatic events including exposure to violence in his home country, making the long journey from El Salvador to the United States and having been placed in long-term detention – for one year – and transferred to two different facilities in a period of one year. . . . S.E.A.Z. has been showing for months signs of extreme stress and anxiety. Moving them again can only heighten his mother’s and his own stress S.E.A.Z. has made friends and developed relationships with other long-term detained children and adults. Moving him and his mother to a new detention center will break these relationships adding to an increased sense of impermanency and loss further eroding the stability of an already erratic childhood environment. . . . [At] Karnes Family Detention in Texas . . . , I have been told, families stay for an average of 20 days. In my professional opinion this will lead to a worsening of his psychological well-being. He will be exposed to a much higher rate of transiency, which can only lead to a further exacerbation of mental health systems and a deterioration of his general mental health.

Shapiro Declaration at ¶¶ 15, 17; *see also id.* at ¶ 16 (noting that he had observed “high levels of emotional distress” and “regressive behavior” among children detained at Karnes as well as “similar deficiencies” in mental healthcare to those he has observed at Berks); Zelaya Alberto Declaration at ¶ 60.

The government has offered no true and legitimate reason to inflict further trauma on this young child, who has been in detention for a sixth of his life.

CONCLUSION

The Government's motion to transfer pursuant to Rule 23(a) should be denied.

Dated: August 31, 2016

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**Application for admission forthcoming*

Certificate of Service

I hereby certify that on August 31, 2016, I electronically filed this Motion for Appellants with the Court Clerk using the ECF system, which will send notification to Appellees' registered counsel.

/s/ Lee Gelernt
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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

<p>ROSA ELIDA CASTRO, <i>et al.</i>,</p> <p>Appellants</p> <p>v.</p> <p>U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”), <i>et al.</i>,</p> <p>Appellees</p>	<p>NO. 16-1339</p>
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Declaration of Karen Margarita Zelaya Alberto in Opposition to Government’s Motion to
Transfer

I, Karen Margarita Zelaya Alberto, make this declaration based on my personal knowledge, and if called to testify I could and would do so as follows:

1. I am a 22-year-old Salvadoran mother. I fled my country with my now-6-year-old son, identified in this case as S.E.A.Z., and came to the United States because we feared for our lives.

2. We are both Petitioners-Appellants in this case. We filed this case to fight our deportation to El Salvador, because we are terrified that we will be killed if we are sent back there.

3. We are detained at the Berks family immigration detention center in Leesport, Pennsylvania. My little boy and I have been in detention for one year. Although being locked up without our freedom has been incredibly difficult for us, we have endured this detention because we do not want to die in El Salvador.

4. I have reviewed and had translated for me the allegations made in the declaration of Jennifer D. Ritchey. The government says that I pose a safety or health risk, that my behavior is disruptive, and that I am an inattentive mother, but none of that is true.

Berks Staff Has Always Given Me Positive Reviews of My Behavior

5. I have received monthly reviews of my behavior from the staff at Berks, and those reviews have always been positive. Every month, Berks staff has given me a Monthly Review that discusses my behavior. My reviews from when I arrived at Berks through this month (August 2016) are attached as Exhibit A. I obtained copies of the attached reviews from Berks staff after I requested them on August 24 and August 26, 2016. Exhibit A contains a true and correct copy of the Monthly Reviews that Berks staff gave to me. I have had these reviews translated to me.

6. None of these Monthly Reviews has indicated that there is any problem or concern about my behavior. For example, in the Monthly Review dated August 24, 2016 – the same day that the government filed its motion alleging that I pose an imminent risk – my caseworker wrote that my “[b]ehavior in the program remains adequate.” Exhibit A (Monthly Review 7/26/16 to 8/24/16).

7. Similarly, last month, in a review dated July 25, 2016, my caseworker wrote that my behavior “remains positive. Karen displays appropriate interactions with her family. She shows respect towards staff[.]” Exhibit A (Monthly Review 6/27/16 to 7/25/16).

8. Likewise, the Monthly Review dated June 26, 2016, says my behavior “remains positive” and says that I “show[] respect towards staff[.]” Exhibit A (Monthly Review 5/27/16 to 6/26/16). The other Monthly Reviews are all similar in talking about my behavior. Exhibit A (Monthly Review 4/27/16 to 5/26/16) (“Karen continued to demonstrate acceptable behaviors in the program.”); Exhibit A (Monthly Review 3/27/16 to 4/26/16) (“Karen’s behavior remains acceptable.”); Exhibit A (Monthly Review 2/27/16 to 3/26/16) (“Karen continues to be an active resident. She remains sociable throughout the day with other residents and staff within the

program.”); Exhibit A (Monthly Review 1/28/16 to 2/26/16) (“Karen[’s] behavior and interactions remain acceptable.”); Exhibit A (Monthly Review 12/28/15-1/27/16) (“She is pleasant and sociable with the other residents and respectful of staff. Karen abides by the program rules and regulations . . .”); Exhibit A (Monthly Review 11/28/15-12/27/15 (“She socializes nicely with the other residents and is respectful towards staff. She follows the rules of the program . . .”).

Berks Staff Has Always Given Me Positive Reviews of My Parenting

9. These Monthly Reviews also talk about my interactions with my little boy, and have always said good things about my parenting. Nowhere do any of these reviews say that I am a bad or inattentive parent, nor do they mention any problems in my disciplining of my son.

10. For example, in the most recent review dated the same day the government filed its motion to transfer me and my son, my caseworker wrote: “Family interactions remain acceptable. Karen shows an interest in her son’s behaviors and provides him with redirection when necessary. There do not appear to be any specific problematic issues between them.” Exhibit A (Monthly Review 7/26/16 to 8/24/16).

11. For last month, the Monthly Review dated July 25, 2016, says that “[t]he family shows positive mother/son interactions. Karen shows an interest in her son’s behaviors and provides him with redirection when necessary. . . . They do not display any specific issues between them.” Exhibit A (Monthly Review 6/27/16 to 7/25/16).

12. The other Monthly Reviews are similar in talking about my interactions with my son. For example, the Monthly Review dated April 26, 2016, says: “Family interactions remain positive. Karen presents as a loving and responsible mother to her young son. . . . Karen attends to her son[’]s needs and provides him with guidance when necessary.” Exhibit A (Monthly

Review 3/27/16 to 4/26/16). The Monthly Review dated December 27, 2015 says “Karen displays loving and responsible interactions with her son” Exhibit A (Monthly Review 11/28/15-12/27/15). A paper signed by both Berks Staff and an ICE officer described me as “a good mother” to my son. Exhibit A (Individual Service Plan 10/28/15 to 11/27/15).

The Government’s motion is retaliation

13. I believe that the government’s attempt to transfer me and my little boy to Texas is retaliation for my participation in activities drawing attention to the situation of families detained at Berks and because I decided to challenge my deportation in federal court in this case.

14. A group of mothers at Berks, including me, has undertaken a fast because of our prolonged detention and that of our children, which is nearing or exceeding a year for several of us. We have asked that ICE release us and our children from detention while this case proceeds. There has been press coverage of our fast. I am hopeful that we can be released from detention while we continue to challenge our deportation cases, but the reason we have already suffered through being locked up for so long is because we do not want to be sent back to death in our home country.

15. We are so sad that our young children – many of whom are traumatized by the violence in Central America – have spent so long in detention already. Our children are as young as two years old, and my own son has spent one-sixth of his young life locked up here. We see our children suffering and it breaks our hearts. For these reasons, we are participating in the fast and have participated in other peaceful activities, such as prayer vigils.

16. I have often been the one to speak to the press on behalf of the women and children at Berks. For example, I was interviewed over the phone by television and radio

reporters and have been quoted in several newspapers this month. Some news reports referred to me as a mother of a 6-year-old, or used my second name, Margarita.

17. The staff at Berks knows that I have given these interviews. The day after one interview in which the name Margarita was used, a staff member pointedly called me “Margarita.” It was clear he meant to show that he knew I had spoken to the media. No one at Berks had ever called me by that name before.

18. ICE officials and the staff at Berks consider me a leader of the fast. ICE Field Office Director Thomas Decker has met with me and the other women detained at Berks twice in recent weeks because of the fast. Because some of the other women are scared to speak up, I often spoke on behalf of the other women at those meetings. We asked that our attorneys be allowed at those meetings, but they were not allowed. I saw a sign that was posted at Berks explaining that no attorneys would be allowed at one of those meetings with Mr. Decker. Attached as Exhibit B is a true and correct photo of that sign.

19. During both of these meetings, we asked Mr. Decker why other families had been released, but we were not. He repeatedly told us that he could not release us because we have a federal case in the Third Circuit or because we have a pending federal case. He also said that if we did not stop the fast, he would be forced to send us to Texas or separate us from our children.

20. Although most of the mothers who were fasting were part of the federal habeas case, there were a few mothers fasting who had not filed federal cases. Those mothers were just like us because they had received negative decisions from the asylum officer and were ordered deported – the only difference was that those mothers had not filed any federal court case. Mr. Decker released almost all of those other families from detention after we started the fast, but

emphasized to the rest of those fasting that we could not be released because we were participating in the federal case.

21. I believe that Mr. Decker is refusing to release the families participating in the habeas case in retaliation for our decision to challenge our deportation orders in court. Because I decided to participate in this case, and because I am seen as a leader of the mothers and of the fast, and have spoken to reporters on several occasions, the government is trying to transfer me and my little boy in retaliation.

My participation in the fire drill on February 29

22. Ms. Ritchey says that I disrupted a fire drill on February 29, but that is untrue.

23. During the fire drill that day, I stood with a group of other women on the way to the exit because it was too crowded to get to the door. When a staff member told me to keep walking, I explained that I could not because of the other women in the way. He did not say anything else or tell me to do anything else. I did not tell the other women to act in any in any particular way during that drill.

24. Berks has approximately 3 fire drills per month. Since the end of February, there have been approximately 18 fire drills. I have participated in each of those fire drills, and since that day no one has ever spoken to me about any concerns about my conduct during any fire drill. None of my Monthly Reviews (attached as Exhibit A) have included any concerns about my ability to follow directions during a fire drill. The first time that I became aware that the government believed I disrupted the February fire drill was when I received the government's motion.

My response to a request to clean a bathroom on March 6

25. Ms. Ritchey says that I refused to clean a bathroom on March 6, but no one ever told me that I was required to clean that bathroom.

26. It was my understanding that I was required to clean the room I shared with other women on the second floor and our own bathroom, a chore that I have performed on a regular basis without incident. A staff member asked me that day if I was going to clean the communal bathroom on the first floor of the facility. I said "no," and she said "ok."

27. If cleaning that bathroom that day was mandatory, I did not understand that to be the case. The staff member I talked to only speaks some words of Spanish, and spoke to me in English. I understand some English but not perfectly, so there may have been a misunderstanding.

28. My Monthly Review for that period says nothing about this incident. None of my Monthly Reviews (Exhibit A) say anything about any concerns regarding my completion of chores. The first time that I became aware that the government had any concern about my response on March 6 was when I received the government's motion.

The care I provided on June 24 for three-year-old boy who was detained alone when his mother was in the hospital

29. Ms. Ritchey says that I attempted to force feed a child on June 24, but that is not true.

30. The child was a three-year-old boy, "D.", whose mother became very sick and was taken to the hospital. I was friendly with both D. and his mother while they were detained. On June 23, while his mother was hospitalized, I saw him sitting in the living room at breakfast but not eating. I asked if he would like some cereal. I had some cereal as my personal food in my room. He said yes. D. chose two cereals to eat. I fed him, and then fed my son. A staff psychologist thanked me for helping D.

31. Later that day, D. followed me around. I noticed his finger and toe nails were dirty, so I cleaned and clipped them. Another staff member thanked me for that.

32. The next day, June 24, I saw D. looking uncomfortable. A staff member was trying to feed him but D. kept turning away. Because I had been able to help him the previous day, I wanted to offer to help. As I approached, the staff member saw me and then pulled D. away. The staff member took him away to the medical unit. The toddler was screaming.

33. I did not force feed or attempt to force feed D. at any time.

34. Ms. Ritchey says that I also gathered a group of women near the medical unit on June 24.

35. A group of women gathered, but not because of me. I did not tell the other women to act in any particular way.

36. I was worried that the staff was not taking proper care of D. while his mother was in the hospital, so I called and told my attorney, Carol Anne Donohoe. I think she called the state Department of Human Services, who came and interviewed me about whether Berks staff members were taking care of D. They did not mention anything bad about my conduct, only thanked me for looking after D.

37. I do not understand what an investigation of Berks staff by the Department of Human Resources has to do with this motion. It seems like Ms. Ritchey is saying that I should be punished for telling my lawyer about my concerns that D. was not being cared for.

38. My Monthly Review for that period – which was completed two days later on June 26 – says nothing about this incident. Exhibit A (Monthly Review 5/27/16 to 6/26/16). The report says that my “Behavior in the program remains positive. . . . She shows respect

towards staff[.]” The first time that I became aware that the government had any concern about my behavior on June 24 was when I received the government’s motion.

Standing near the doorway to another woman’s room on July 19.

39. Ms. Ritchey says I blocked a woman’s door on July 19, and appears to be saying that I was somehow preventing the woman from leaving.

40. The woman who was involved had asked me to come talk to her because she was being threatened with deportation and wanted me to contact my attorney for her. I was standing in the doorway and, when staff asked me to move, I moved. I never prevented anyone from going into or coming out of the room. The woman was not trying to leave the room, but was sitting on her bed.

41. My Monthly Review for that period, which is dated 6 days later, says nothing about this incident. Exhibit A (Monthly Review 6/27/16 to 7/25/16) (“Behavior in the program remains positive. . . . She shows respect towards staff[.]”). The first time that I became aware that the government had any concern about this interaction on July 19 was when I received the government’s motion.

Concerns about the outdoor temperature on August 14 and 15

42. Ms. Ritchey says I refused to comply with an order to go inside on August 14 because it was hot, but I did not understand that any staff member had mandated that we go inside. Ordinarily, we are allowed to be outside during the day if we choose.

43. Ms. Ritchey says August 14 was unusually hot. Actually, the week before was hotter on some days, yet Ms. Ritchey’s declaration does not raise any concerns about us going outside that week. Also, being from El Salvador, I am used to the heat. The weather on August 14 did not seem especially hot to me.

44. What was different about August 14 was that community members had organized a peaceful vigil in support of our fast. The vigil was set to start at 10 a.m., so I and the other women went outside at 9 a.m. to pray. No staff told us it was too hot to be outside at that point. We stayed outside when the nearby vigil started at 10.

45. After the vigil started, staff members came to say that the supervisor said we should come inside because of the heat. I told the staff that we were okay outside. The staff said “okay” but that we should change to short-sleeve shirts. I again said we were okay, and that we did not want to wear short-sleeves, because we did not want to get sunburned. They suggested coming in to drink water, and other women again said we were okay. I was not the only mother to remain outside – many other women chose to remain outside at that time.

46. I did not understand anything the staff said to mean that we were being ordered to come inside. The other women also did not understand that we were required to go inside.

47. Later that day, after we had returned indoors, the doors to the outside area were locked.

48. I do not recall any staff ever mentioning this interaction to me again after that day. My Monthly Review for that period, which is dated the same day that the government filed its transfer motion, says nothing about this incident. Exhibit A (Monthly Review 7/26/16 to 8/24/16) (“Behavior in the program remains adequate.”). The first time that I became aware that the government had any concern about this interaction on August 14 was when I received the government’s motion.

49. Ms. Ritchey says that I left the building on August 15, the following day, against staff instructions, but I did not.

50. My Monthly Review for that period, which is dated the same day that the government filed its transfer motion, says nothing about this incident. Exhibit A (Monthly Review 7/26/16 to 8/24/16). The first time that I became aware that the government had any concern about me supposedly leaving the building on August 15 was when I received the government's motion.

Legal visits

51. Ms. Ritchey says that I have interrupted private legal visits or legal orientation trainings.

52. I am not aware of ever interrupting a private legal meeting or training. I do not remember any staff ever mentioning any problems with interruptions to me, at any time. My Monthly Reviews (Exhibit A) say nothing about any such disruptions. The first time that I became aware that the government had any concerns in this regard was when I received the government's motion.

Caring for my son

53. Ms. Ritchey says that that I have engaged in misconduct regarding my 6-year-old son. Those allegations are particularly hurtful.

54. On February 11, Berks staff told me they did not like how I disciplined my son. A state agency said their concerns were unfounded, but I still have tried to make sure I follow all Berks staff directions about how to discipline my son.

55. My Monthly Reviews don't talk about any problems with discipline. On February 26, 2016, a few weeks later, my Monthly Review said regarding my son that I "redirect[] him and instruct[] him when needed." Exhibit A (Monthly Review 1/28/16 to

2/26/16). The Monthly Review for the following month similarly says that I “provide[] him with guidance and redirection when appropriate.” Exhibit A (Monthly Review 2/27/16 to 3/16/16).

56. Paragraph 11 of Ms. Ritchey’s declaration refers to some incidents on other dates, but I do not know what she is referring to.

57. As noted above, the Monthly Reviews completed during the time period talked about in Ms. Ritchey’s declaration recognize that I am a good mother and that I am with my son throughout the day. For example, a Monthly Review written by my caseworker after the February incident says that I am “a loving and responsible mother to [my] young son” and that I “participate[] in program[m]ing activities with [my] son throughout the day.” Exhibit A (Monthly Review 3/27/16 to 4/26/16). Other Monthly Reviews say that “Karen spends time with her son throughout the day,” Exhibit A (Monthly Review 1/28/16 to 2/26/16); Exhibit A (Monthly Review 2/27/16 to 3/26/16 (“Karen and her son [] interact throughout the day[.]”); Exhibit A (Monthly Review 4/27/16 to 5/26/16) (“Karen and her young son ... spend a lot of time together throughout the day[.]”). The Monthly Review dated August 24, 2016 – the same day the government’s motion was filed – recognizes that “Family interactions remain acceptable. Karen shows an interest in her son’s behaviors and provides him with redirection when necessary. There do not appear to be any specific problematic issues between them.” Exhibit A (Monthly Review 7/26/16 to 8/24/16).

A transfer to Texas would harm me and my son

58. My little boy and I do not want to be transferred from Berks to Karnes, Texas.

59. My main attorneys are near Berks, and being transferred to Texas will make it much harder to meet with my attorneys. Also, because our habeas case is being heard together with many of the other women’s cases, it is important for us to be able to meet together with our

attorneys and talk about developments in the case. Moving me to Texas will isolate me from the other women and make it harder for us to work together in pursuing this case.

60. I am also afraid for my son's health and well-being. Being transferred from Texas to Berks was traumatic for him. It took a long time for him to recover from that trauma. I am worried that he will be traumatized again if we are sent back to Texas. Also, he is too young to understand what is happening. If we are moved, he may become depressed and anxious again.

61. Also, I have been trying to obtain treatment for my son's serious dental problems for many months, and it has been delayed many times. I fear that if we are moved it will delay his treatment even longer, and will threaten his health even more.


62. I declare under penalty of perjury of the laws of the state of Pennsylvania and the United States that the foregoing is true and correct to the best of my knowledge and recollection.



Karen Margarita Zelaya Alberto

8/30/16
Date

I certify that I am proficient in the English and Spanish languages and that I read the foregoing to Karen Margarita Zelaya Alberto in Spanish.



Oscar Sarabia

8/30/16
Date

Exhibit A

Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610)-376-3454

Individual Service Plan
Monthly Review
7/26/16 to 8/24/16

Name: Karen Zayala Alberto



Country: El Salvador

Date of Admission: 10/28/15

ICE Officer: Greta Young

Date of Review: 8/24/16

Caseworker: Linda McDonough

Goal Progress:

Karen is making minimal progress towards her case goals this report period. She remains actively involved in her legal case. She receives legal counsel from Attorney's Cambria & Kline as well as various other legal avenues in an effort to assist in her case. She has not yet received a court date in this facility and is able to discuss case concerns with immigration officers as well as her attorney. Karen has expressed frustrations with the progress of her case and length of stay in the program. She has been skipping meals and has not been participating in as many programming activities.

Behavioral

Behavior in the program remains adequate. Karen interacts with the other resident families but has limited her interaction with staff.

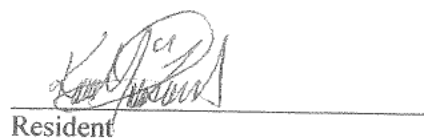
Family Interaction

Family interactions remain acceptable. Karen shows an interest in her son's behaviors and provides him with redirection when necessary. There do not appear to be any specific problematic issues between them.

Discharge Plan

Karen is waiting for a decision to be made in her case. She has not received a court date within this facility. She is able to discuss case progress with her attorney as well as immigration officials. A discharge plan has not been finalized for the family.


Linda McDonough, Caseworker


Resident

Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610)-376-3454

Individual Service Plan
Monthly Review
6/27/16 to 7/25/16

Name: Karen Zayala Alberto



Country: El Salvador

Date of Admission: 10/28/15

ICE Officer: Greta Young

Date of Review: 7/25/16

Caseworker: Linda McDonough

Goal Progress:

Karen continues to move towards her goals this report period. She remains actively involved in her case and continues to receive legal counsel from Attorney's Cambria and Kline. She has also spoken with various other attorneys in an effort to assist in her case. She has not yet received a court date in this facility and is able to discuss case concerns with immigration officers as well as her attorney. Karen continues to engage in programming activities such as bingo, wiffle ball, baseball games, field day events and off site trips from the facility. As her stay progresses she is learning more about the American culture and increasing her knowledge of the English language.

Behavioral

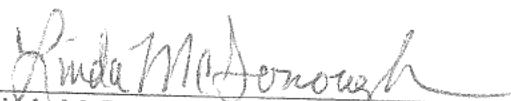
Behavior in the program remains positive. Karen displays appropriate interactions with her family. She shows respect towards staff and seems to appreciate the services offered to her family.


Family Interaction

The family shows positive mother/son interactions. Karen shows an interest in her son's behaviors and provides him with redirection when necessary. The family can be seen throughout the day participating in programming activities and interacting with other residents. They do not display any specific issues between them.

Discharge Plan

Karen is waiting for her case to progress. She has not received a court date within this facility. She is able to discuss case progress with her attorney as well as immigration officials. A discharge plan has not been finalized for the family.


Linda McDonough, Caseworker


Resident

Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610)-376-3454

Individual Service Plan
Monthly Review
5/27/16 to 6/26/16

Name: Karen Zayala Alberto



Country: El Salvador

Date of Admission: 10/28/15

ICE Officer: Greta Young

Date of Review: 6/26/16

Caseworker: Linda McDonough

Goal Progress:

Karen is making minimal progress towards her goals this report period. She remains actively involved in her case and continues to receive legal counsel from Attorney's Cambria and Kline. She has not yet received a court date in this facility and is able to discuss case concerns with immigration officers as well as her attorney. Karen continues to engage in programming activities such as bingo, wiffle ball, baseball games, field day events and off site trips from the facility. As her stay progresses she is learning more about the American culture and increasing her knowledge of the English language.

Behavioral

Behavior in the program remains positive. Karen displays appropriate interactions with her family. She shows respect towards staff and seems to appreciate the services offered to her family.

Family Interaction

The family shows positive mother/son interactions. Karen shows an interest in her son's behaviors and provides him with redirection when necessary. The family can be seen throughout the day participating in programming activities and interacting with other residents. They do not display any specific issues between them.

Discharge Plan

Karen is waiting for her case to progress. She has not received a court date within this facility. She is able to discuss case progress with her attorney as well as immigration officials. A discharge plan has not been finalized for the family.


Linda McDonough, Caseworker


Resident

Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610)-376-3454

Individual Service Plan
Monthly Review
4/27/16 to 5/26/16

Name: Karen Zayala Alberto



Country: El Salvador

Date of Admission: 10/28/15

ICE Officer: Greta Young

Date of Review: 5/26/16

Caseworker: Linda McDonough


Goal Progress:

The family continues to move towards their goals this month. Karen has not been scheduled for court this report period and is waiting for a decision to be reached on her immigration case. She continues to be represented by Attorney's Cambria and Kline and consults with them for case updates. Karen continues to be focused on her case and remains active in the program. She continues to participate in programing activities such as wiffle ball, softball games, exercise sessions and ESL classes. She is learning more about the American culture and understanding more of the English language as her stay progresses.

Behavioral


Karen continued to demonstrate acceptable behaviors in the program. She socializes with the other resident families and spends time with her son throughout the day. She remains active in programing activities.

Family Interaction

Karen and her young son  continue to demonstrate appropriate mother/son interactions. They spend a lot of time together throughout the day socializing with others and participating in programing activities. Karen shows an interest in her son's behaviors and activities and provides him with redirection when appropriate.

Discharge Plan

Karen has not been scheduled for court within this facility. She continues to be represented by Attorney's Cambria and Kline and is waiting for a decision to be reached on the case. She remains focused on her case progress. Release plans have not been finalized to date.


Linda McDonough, Caseworker


Resident

Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610)-376-3454

Individual Service Plan
6 Month Review
3/27/16 to 4/26/16

Name: Karen Zayala Alberto



Country: El Salvador

Date of Admission: 10/28/15

ICE Officer: Josh Petrey

Date of Review: 4/26/16

Caseworker: Linda McDonough

Goal Progress:

Karen continues to move towards her program goals this report period. She has not yet received a court date in this program and continues to be represented by Attorney's Cambria and Kline. Karen remains focused on her case progress and desire to remain in this country. She continues to participate in programing activities and displays an increased knowledge of the American culture and English language.

Behavioral


Karen's behavior remains acceptable. She is an active and sociable resident. She participates in programing activities with her son throughout the day and interacts with other residents and staff.

Family Interaction

Family interactions remain positive. Karen presents as a loving and responsible mother to her young son. They spend a lot of time throughout the day during socialization and group participation. Karen attends to her sons needs and provides him with guidance when necessary.

Discharge Plan

Karen continues to receive legal counsel through Attorney's Cambria and Kline and remains active in her case. She is able to discuss case concerns with her attorney's as well as immigration officials. A discharge plan has not been confirmed.


Linda McDonough, Caseworker


Resident

Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610)-376-3454

Individual Service Plan
Monthly Review
2/27/16 to 3/26/16

Name: Karen Zayala Alberto [REDACTED]

Country: El Salvador

Date of Admission: 10/28/15

ICE Officer: Josh Petrey

Date of Review: 3/26/16

Caseworker: Linda McDonough

Goal Progress:

Karen is making minimal progress towards her program goals. A court date has not been scheduled within this facility. Karen remains actively involved in her case progress and consults frequently with her Attorney's Cambria and Kline. She has also consulted with various other attorneys in an effort to assist in her case. Karen socializes with the other resident families and is an active resident. She is able to learn more about the American culture through participation in programming activities and expand her English language skills through ESL classes.

Behavioral

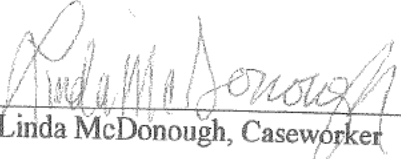
Karen continues to be an active resident. She remains sociable throughout the day with other residents and staff within the program.

Family Interaction

Karen and her son [REDACTED] interact throughout the day during programming activities and socializing with other resident families. Karen shows and interest in her son's activities and behaviors. She provides him with guidance and redirection when appropriate.

Discharge Plan

The family's immigration case is still pending. They continue to receive legal counsel through Attorney's Cambria & Kline. Karen is able to seek input on her case progress through her attorneys as well as immigration officials. A plan of release has not been finalized for the family.


Linda McDonough, Caseworker


Resident

Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610)-376-3454

Individual Service Plan
Monthly Review
1/28/16 to 2/26/16

Name: Karen Zayala Alberto



Country: El Salvador

Date of Admission: 10/28/15

ICE Officer: Josh Petrey

Date of Review: 2/26/16

Caseworker: Linda McDonough

Goal Progress:

Karen continues to move towards her program goals. She has not yet received a court date, but continues to be represented by Attorney Cambria and Kline. Karen is waiting for a decision to be reached in her case. She remains focused and involved in the progress of her case and is in regular contact with her attorneys. Karen is social with the other families and a vocal and active resident. Her knowledge of the American culture and English language skills shows improvement.

Behavioral

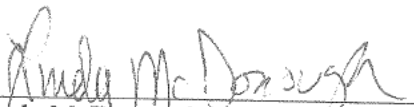
Karen behavior and interactions have been acceptable. She interacts with the other residents and is active and vocal in the program.

Family Interaction

Karen spends time with her son throughout the day. She redirects him and instructs him when needed.

Discharge Plan

The family has not yet received a court date but is represented by Attorney Cambria & Kline. Karen is able to discuss case progress with her attorney's as well as immigration officials. A discharge plan has not been specified.



Linda McDonough, Caseworker



Resident

Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610)-376-3454

Individual Service Plan
Monthly Review
12/28/15 to 1/27/16

Name: Karen Zayala Alberto



Country: El Salvador

Date of Admission: 10/28/15

ICE Officer: Josh Petrey

Date of Review: 1/27/16

Caseworker: Linda McDonough

Goal Progress:

Karen is making minimal progress towards her goals this report period. She has not yet had a court date but has obtained legal counsel through Attorney's Cambria & Kline. She is waiting for her case to progress. Karen remains sociable in the facility and actively participates in programing activities. She is gaining English language skills and learning more about the American culture through group participation and offsite field trips.

Behavioral

Karen continues to display positive behaviors and interactions. She is pleasant and sociable with the other residents and respectful of staff. Karen abides by the program rules and regulations and shows an appreciation of the program services.


Family Interaction

Family interactions remain positive. Karen spends a lot of time with her son socializing with other residents and participating in programing activities. She provides him with guidance and support throughout the day. They do not display any specific problematic issues between them.

Discharge Plan

Karen has not yet been scheduled for court and is waiting for her case to progress. She has obtained legal counsel through Attorney's Cambria & Kline. She is able to consult with her attorney's or immigration officials on the status of her case. A plan of release has not been finalized for the family.


Linda McDonough, Caseworker


Resident

Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610)-376-3454

Individual Service Plan
Monthly Review
11/28/15 to 12/27/15

Name: Karen Zayala Alberto [REDACTED]

Country: El Salvador

Date of Admission: 10/28/15

ICE Officer: Josh Petrey

Date of Review: 12/27/15

Caseworker: Linda McDonough

Goal Progress:

Karen continues to progress towards her program goals. She has not had court at this facility but has obtained legal counsel through Attorney's Cambria and Kline. She is waiting for her case to progress. Karen continues to socialize with the other residents and is vocalizing more English words and phrases. She is learning more about the American culture through group participation such as off site trips, exercise sessions and music groups.

Behavioral

Karen demonstrates positive behaviors within the program. She socializes nicely with the other residents and is respectful towards staff. She follows the rules of the program and shows appreciation of the services offered to her family.

Family Interaction

Karen displays loving and responsible interactions with her son [REDACTED]. She spends time throughout the day caring for his needs and providing him with guidance. There do not appear to be any specific problematic issues within the family unit.

Discharge Plan

Karen has not had court in this facility. She has obtained legal counsel through Attorney's Cambria and Kline. She is awaiting an official decision on her case. She is able to discuss case progress with her attorney or immigration officials. A discharge plan has not been specified.


Linda McDonough, Caseworker

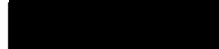

Resident

Berks County Residential Center
BCRC/Family Residential Program
1040 Berks Road
Leesport, Pennsylvania 19533
(610) 396-0310 Fax (610) 376-3454

Individual Service Plan
10/28/15 to 11/27/15

The Individual Service Plan (ISP) is intended to reflect the services provided by the Berks County Residential Center, in accordance with Department of Public Welfare regulations. The documented goals are developed through collaboration with each child, the child's parent or guardian (if applicable), the U.S. Bureau of Immigration and Customs Enforcement's local office, and the program's management, staff and educational personnel. The ISP will be monitored through numerous methods: weekly updates via staff meetings, daily reviews as warranted and monthly reviews.

Name: Karen Zayala Alberto



Country of Origin: El Salvador

Date of Admission: 10/28/15

ICE Officer: Josh Petrey


Prepared By: Linda McDonough

Date of Report: 11/27/15

Reason for Placement

Karen and her family were placed in the Berks County Residential Center (BCRC)/ Family Residential Program at the request of ICE for being aliens illegally present in the US currently in ICE custody. Their length of stay may be up to 6 months or longer and will be determined by the Federal Court system and Immigration officials.

Family Dynamics and Interaction

Karen (22) presents as a good mother to her son  (5). She shows concern for his behaviors and an interest in his activities throughout the day. There do not appear to be any problematic issues within the family unit.

Family Goals

Karen seems to be focused on her goal of remaining in this country. Progress in this area can be achieved by communicating with Immigration officials through interviews and the court process. The family can also seek legal representation. Karen entered the program with some knowledge of English and the American culture. She is also able to increase her knowledge through daily interactions and participation in programming activities.

Individual Service Plan

Life Skills

Karen has the opportunity to participate in structured program activities throughout her stay. Through participation in these activities she is able to increase her knowledge of the English language and the American culture. She can also increase her life skills by participating in the various structured activities such as nutrition, exercise, arts/crafts and cooking/baking which take place weekly.

Medical

Shortly after admission, the facility medical provider examined the family. The facility medical personnel will assess any additional needs. The family will receive the routine medical care provided by the program.

Mental Health

Mental health assessments are conducted as part of the admission process, with weekly psychological follow-ups, which are conducted by a contracted licensed psychologist. She is able to request individual therapy as needed. Specific concerns with the family will be addressed at monthly case conference meetings or as needed by the mental health department.


Discharge Plan

Karen has not been scheduled for court at this facility. She has sought legal counsel and is waiting for a decision to be reached on her case. She is able to speak with immigration officials at her request. A plan of release has not been finalized for her family.


Individual Service Plan

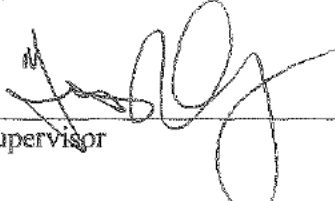
Please sign on the appropriate line. Your signature implies your involvement in the development of this Family Service Plan. In addition to your signature, comments and feedback are welcomed. This FSP will be reviewed monthly, after the initial plan composition.


Resident


Counselor


ICE Officer


Caseworker


Supervisor

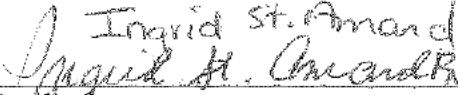
Ingrid St. Amant

Medical

Exhibit B

Mr. Thomas Decker will be here at BCRC tomorrow around 10:30am to meet with the residents. He will meet with the residents in a group setting, and afterwards, anyone who wishes to speak with him individually may do so. The attorneys may not be present during this meeting. Your attorneys may write him a letter with any questions or concerns they may have.

Sr. Thomas Decker estará aquí a BCRC mañana alrededor de las 10:30 am para reunirse con los residentes. Se reunirá con los residentes en un ambiente de grupo, y después, cualquier persona que desea hablar con él de forma individual puede hacerlo. Los abogados no pueden estar presentes en esta reunión. Sus abogados pueden escribir una carta con cualquier pregunta o preocupación que puedan tener.

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

ROSA ELIDA CASTRO, *et al.*,

Appellants

v.

**U.S. DEPARTMENT OF HOMELAND
SECURITY (“DHS”), *et al.*,**

Appellees

NO. 16-1339

Declaration of Dr. Alan Shapiro in Opposition to Government’s Motion to Transfer



August 26, 2016

Re: Karen Margarita Zelaya Alberto

S.E.A.Z.

1. I, Dr. Alan Shapiro, hereby declare under penalty of perjury, under the laws of the United States, and pursuant to 28 U.S.C. § 1746 that the following is true and correct to the best of my information and belief:

2. I, Alan Shapiro, MD, pediatrician and Senior Medical Director of Community Pediatric Programs (CPP) of the Children's Hospital at Montefiore, have been asked to submit a letter of support in favor of not transferring Karen Margarita Zelaya Alberto or her son, referred to in this case as S.E.A.Z., whom I have interviewed on August 18 and 19, 2016, from the Berks County Residential Detention Center to the Karnes Family Detention Center in Texas.

3. I am a licensed physician in the state of New York since 1990, and an Assistant Professor of Clinical Pediatrics at Montefiore Medical Center and the Albert Einstein College of Medicine. I have been dedicated to providing comprehensive pediatric care to vulnerable children throughout my career and have extensive experience working with immigrant communities. I was the recipient of the 2012 Children's Health Fund Founders' Award with which I co-founded Terra Firma. This medical-legal partnership program, located in our community health center, focuses on the medical, psycho-social and legal needs of immigrant children, unaccompanied and accompanied. To date, Terra Firma has provided medical, mental health and legal services for almost 300 unaccompanied and accompanied immigrant children and adult members (parents) of family of newly arrived family units

4. As an active member of the American Academy of Pediatrics' Immigrant Health Special Interest Group, I have been deeply involved with studying the conditions of detention for both accompanied and unaccompanied children and have visited the following detention centers:

Berks County Residential Detention Center, PA (7/2015), Southwest Keys ORR Shelter for Unaccompanied Immigrant Children, Texas (10/2015); Karnes Family Detention Center, Texas, (12/2015), Baptist Children and Family Services ORR Shelter for Unaccompanied Immigrant Children and Southwest Keyes ORR Shelter for Unaccompanied Immigrant Children, Texas (8/2015).

5. Lastly, I visited Berks County Family Detention Center from 8/18 – 8/19/2016 and had the opportunity of interviewing a number of women and children who have been in detention for

over 2 months and in some cases 1 year. It was at this visit that I met Karen and her son, S.E.A.Z.

6. Karen has fled El Salvador with her son seeking safe haven in the US after having her life directly threatened by local gang members. Upon being apprehended she was first processed by Customs and Border Protection and then transferred to the Dilly Family Detention Center. She and her son were then transferred to the Berks County Residential Detention Center and on August 29, 2016 will have been in detention for one year. It is in my professional opinion that this prolonged detention places Karen but more egregiously her son S.E.A.Z.'s health and emotional well-being in jeopardy. It is also my concern that this experience of prolonged detention may have a long-lasting detrimental effect of the normal growth and development of S.E.A.Z., a 6 year old boy; subjecting mother and son to particularly cruel treatment.

7. From a professional standpoint, the detention of any child should be curtailed. Studies here and abroad have demonstrated the deleterious effects of detention on the health and psychological wellbeing of a child. The American Academy of Pediatrics is aware of immigrant family detention centers and has issued statements of concern regarding the detrimental effects of detention on a child's health and wellbeing and, in fact, has written a formal letter to Department of Homeland Security, requesting an end to this practice.

The Deleterious Effects of Detention on S.E.A.Z.:

8. Detention is having a direct effect on S.E.A.Z.'s social-emotional and behavioral well-being. A previous evaluation on April 26, 2016, by a Licensed Clinical Social Worker and Play Therapist, diagnosed S.E.A.Z. with Post-Traumatic Stress Disorder, Chronic. At that time, she had concerns about the chronicity of his symptoms (greater than 3 months) and the re-traumatizing effect that detention was having on him. It was her recommendation that release from detention into a stable environment where S.E.A.Z. could receive specialized care was imperative to prevent deterioration and a worsening long-term psychiatric outcome. Since that time Karen reports that her son still has been frustrated by their detention and exhibits signs of stress and anxiety.

10. I had time with S.E.A.Z. in the room I was conducting interviews in. I observed him to be very smart but clearly showing signs of behavioral regression. I witnessed him pulling the lariat from his ID close to his neck, making a gesture that he was choking himself. This is a clear demonstration of acute stress and anxiety. He was hyperactive, moving all around the room and scribbling for a few minutes with the crayons and paper I provided him. He also took a soccer ball that I had in the office and began kicking it against the wall. He repeated he wanted to get out of the detention center over and over. However, I was impressed by Karen's patience and ability to calm him down.

Parent-Child Relationship in Detention

11. Karen, like so many mothers I have interviewed, on both trips to Berks and on my one trip to Karnes, complains of changes in their relationship with their children. This comes from the

children feeling that their parents are powerless and don't understand why they cannot get them out of detention. This often leads to parents' loss of a sense of control and helplessness. In turn, children will then demonstrate regressive behavior as S.E.A.Z. has shown. While it is challenging to care for 6-year-old children under the best of circumstances, it was obvious to me how good Karen's parenting skills were, especially under such duress as being in detention for one year. She showed affection, patience yet the ability to decisively control his behavior while he was in the room with the writer of this affidavit.

12. Also of concern are the rigid rules in the detention center, which doesn't give mothers any relief from their young children. One adolescent told me that he was reprimanded for playing with Karen's son. In fact, I saw S.E.A.Z. call this adolescent "papa" and the adolescent's mother "*abuela* (grandma)." The rules in Berks seem illogical in trying to prevent this type of camaraderie and congeniality between detainees leading to furthering their sense of isolation and desperation.

13. Loss of locus of control: In my professional opinion Karen's involvement in the hunger strike is a direct response to her feelings of loss of locus of control. To me this is a healthy psychological defense reaction; namely, sublimation, to the frustration and sense of insecurity she is experiencing to this indefinite detention. She has also made it convincingly clear to me that her actions were a response to her own grave concerns for her child's well-being.

S.E.A.Z. Oral Health

14. According to Karen, S.E.A.Z. has multiple cavities (12 according to what she was told) but has not received complete care addressing his poor oral health. Improper treatment of cavities of this nature could lead to chronic pain, periodontal abscesses and disruption of proper growth and development of permanent teeth.

Moving Karen and S.E.A.Z.

15. I am extremely concerned about the emotional effect that moving Karen and her son will have on both mother and child. I believe this can have a serious re-traumatizing effect for the following reasons:

- S.E.A.Z. already suffers from Chronic Post-Traumatic Stress Disorder. In his very short life, he has been exposed to multiple traumatic events including exposure to violence in his home country, making the long journey from El Salvador to the United States and having been placed in long-term detention – for one year – and transferred to two different facilities in a period of one year. Children need a sense of stability and permanency to allow for normal growth, development and learning. S.E.A.Z. has been showing for months signs of extreme stress and anxiety. Moving them again can only heighten his mother's and his own stress.
- S.E.A.Z. has made friends and developed relationships with other long-term detained children and adults. Moving him and his mother to a new detention center will break these relationships adding to an increased sense of impermanency and loss further eroding the stability of an already erratic childhood environment.
- The plan is to move Karen and S.E.A.Z. to a more secure facility, Karnes Family

Detention in Texas where, I have been told, families stay for an average of 20 days. In my professional opinion this will lead to a worsening of his psychological well-being. He will be exposed to a much higher rate of transiency, which can only lead to a further exacerbation of mental health systems and a deterioration of his general mental health.

16. In December 2015 I visited Karnes and found that the women and children were exhibiting high levels of emotional distress. We found both severe regressive behavior of the children we interviewed and one woman was suicidal yet had not received adequate psychological services (she was not receiving any). When questioned about the quality and extent of mental health services we found similar deficiencies as was seen in a previous trip to Berks.

17. It is my professional opinion as a licensed pediatrician that moving Karen and her son, S.E.A.Z., will have deleterious short-term and long-term effects on their health and psychological well-being. It is against my advice and against all principles of humanitarian medical care that they are moved to a new detention facility. Instead, all efforts should be made to have them released to the outside community where they can get the critical care they need.

I am willing to answer further questions as needed.

Sincerely,



Alan Shapiro, MD
Senior Medical Director
Community Pediatric Programs

August 26, 2016

Co-Founder and Medical Director
Terra Firma: Healthcare and Justice for Immigrant Children

Children's Hospital At Montefiore
853 Longwood Avenue, Suite 201
Bronx, New York 10459
Tel: 718 - 588 - 4460

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

ROSA ELIDA CASTRO, *et al.*,

Appellants

v.

**U.S. DEPARTMENT OF HOMELAND
SECURITY (“DHS”), *et al.*,**

Appellees

NO. 16-1339

Declaration of Carol Anne Donohoe in Opposition to Government’s Motion to Transfer

I, Carol Anne Donohoe, make this declaration based on my personal knowledge, and if called upon to testify, I could and would testify as follows:

1. I am an attorney licensed to practice law in Pennsylvania. I have a private legal practice specializing in immigration law. I primarily represent clients in immigration court and other administrative immigration proceedings. In 2015, I received the Pennsylvania Bar Association Pro Bono Award for my work on behalf of immigrant families detained at the Berks County Residential Center (hereinafter “Berks”) in Leesport, Pennsylvania.

2. Under Pennsylvania law, I am a mandated reporter. As a result, I am required to report suspected instances of child abuse to the Pennsylvania Department of Human Services.

3. From 2014 to the present, I have provided pro bono legal assistance and representation to over 50 families detained at the Berks facility, which has a total capacity of 96 individuals (or beds) at any given time. In this capacity, I have visited the Berks facility on countless occasions, multiple times a week, and have interviewed and spoken with hundreds of

Berks detainees, as well as staff. As a result, I am familiar with the practices and rules of the Berks facility, as well as with the majority of the families presently detained there.

4. Among the families I represent are Karen Zelaya Alberto and her 6-year-old son. I have met and spoken with them on numerous occasions since they were first transferred to Berks in October 2015. I have also observed Karen's interactions with other detained families on numerous occasions.

5. I am one of the only attorneys providing immigration representation to the families detained at Berks. The other attorney who provides immigration representation to these families is Bridget Cambria. Between the two of us, we provide immigration legal assistance to nearly all the represented families detained there. As a result, we are, in addition to habeas counsel, generally the only attorneys that would have occasion to meet with clients at Berks.

6. Although I regularly make legal visits with detained families at Berks, often multiple times a week and for hours at a time, I am unaware of a single instance in which Karen has interrupted a meeting between an attorney and her client. She has never interrupted any of the numerous legal meetings that I have held with clients at Berks from 2015 to the present. The only times when Karen was present in meetings with the attorneys were upon our request.

7. As a frequent and regular visitor to the Berks facility, I am familiar with the common practice of the detained mothers with respect to childcare. It is impossible for a mother to watch her child every minute of the day. The mothers at Berks commonly share childcare responsibilities, relying on other mothers to help supervise their children from time to time. For example, a mother may allow her child to play with another child while the other child's mother is supervising. Thus, although a child may be unattended by his or her mother from time to time, it does not mean the child is not being supervised. I have also observed on many occasions,

young children climbing on the laps of mothers other than their own and receiving comfort. It is clear that the children are enriched by the comfort and care of all of the mothers. And of course, in addition to the mothers and their children, staff is present throughout the facility at all times.

8. In the second half of June, 2016, I became aware that a 3-year-old boy was detained for multiple days at Berks without an accompanying parent after his mother was hospitalized. When I contacted PA Department of Human Services, I was told that there was a County staff member providing 1:1 care for D. I later learned that the staff at Berks was not providing the toddler with a daily change of clothes, failed to bathe him, and were not taking sufficient steps to comfort and care for such a young child who was separated from his mother. For example, because the 3-year-old boy was too scared to sleep in his room without his mother, he was left by the staff to sleep alone on a sofa outside his room. I was also informed that he was given a tray of food to eat by himself in his room while the "1:1" staff member ate her own meal outside of his room.

9. In light of these concerning events, and because I am a mandated reporter, on June 24, I called the Pennsylvania Department of Human Services to report that a young child was being housed at the facility without his mother. I also made a report to ChildLine (a state hotline that receives reports of child abuse) and consulted with a highly-respected licensed social worker whose practice specializes in traumatized children. The social worker stated that, given the child's age and level of understanding, she was certain that he would believe that his mother was dead or dying, which suggested to me that it was particularly important that he receive comfort and care from familiar individuals while his mother was away. The social worker also filed a report with ChildLine.

10. When I visited the boy's mother at the hospital, her primary concern was for her son's care. When I informed her that, that morning, Karen had volunteered, and was permitted, to give her son breakfast and to cut his nails, she expressed her gratitude. She said she'd noted, after his visit, that her son's nails were clipped and had wondered who had done it; she was glad to learn it was Karen. She asked me to thank Karen.

11. I have never known Karen to encourage other families to engage in prohibited conduct, nor have I ever known her to place any other individual's safety or health at risk. Neither have I ever known her to be disrespectful to staff or anyone else, or to be disruptive in any way. To the contrary, Karen is a good mother who is caring and considerate of the other mothers and children detained at Berks with her. Indeed, Karen's good attitude and behavior is reflected in the numerous and uniformly positive Monthly Reviews completed and signed by her caseworker, Linda McDonough, and which I have read.

12. I believe that Jennifer Ritchey's allegations that Karen has "demonstrated an escalating pattern of misconduct," that she poses an "imminent threat to the health and safety of other residents," and an "imminent threat of disruption" to the facility to be totally unfounded.

13. I am aware that on several occasions, Karen has participated in activities opposing the detention of families and children, including an ongoing fast as well as a vigil held at the facility by religious groups and other supporters on August 14. Staff and ICE officers at Berks are well aware of her participation in such activities.


14. I am also aware that Ms. Zelaya Alberto has spoken by telephone and corresponded with news reporters, discussing the situation of the families detained at Berks. I believe that staff and ICE officers at Berks are aware of these media activities. I am familiar with the rules and regulations of Berks and am aware of no rule that would prohibit such

communications with the media. *See* Ritchey Declaration, Exhibit A at 6 (“You have the right to freely correspond with persons or organizations”); *id.* at 35 (establishing special protective procedures for correspondence with the news media).

15. I believe that the staff and ICE officers at Berks view Karen as a leader of the mothers who are pursuing federal habeas corpus petitions in the Third Circuit, and a leader of the mothers who are participating in the fast.

16. It is my belief that the government’s efforts to transfer Karen and her son have been taken in retaliation for her participation in the federal habeas litigation as well as in retaliation for speaking with the press and being a perceived leader of the fast.

I declare under penalty of perjury of the laws of the state of Pennsylvania and the United States that the foregoing is true and correct to the best of my knowledge and recollection.



Carol Anne Donohoe

8-29-16
Date

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

ROSA ELIDA CASTRO, *et al.*,

Appellants

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY (“DHS”), *et al.*,

Appellees

NO. 16-1339

Declaration of Wendy Amparo Osorio Martinez in Opposition to Government’s Motion to
Transfer

I, Wendy Amparo Osorio Martinez, make this declaration based on my personal knowledge, and if called upon to testify, I could and would testify as follows:

1. I am a 26 year old mother from Honduras. I fled with my son, who is now two years old.
2. My son and I are Petitioners-Appellants in this case and are detained at Berks family immigration detention center in Leesport, Pennsylvania. We have been in detention for ten months. Because Karen Margarita Zelaya Alberto and her son have been locked up at Berks throughout my time there, I know them well.
3. I understand that the government has said that Karen encourages the other women to break the rules, but I do not believe this is true. Karen has never tried to get me to break any rules or do anything that is wrong.
4. I understand that the government has also accused Karen of trying to force feed a child on June 24. I was present when Karen offered to help that day, and Karen did not try to force feed the child involved, “D.,” who is three years old.

5. D. was detained at Berks with his mother, but she became sick and went to the hospital. D. stayed at Berks without his mother or any other family members for days. We all felt for him and wanted to help him if we could. I saw him walking around in the same dirty clothes for days, so I could tell the staff had not bathed him. I saw him sleeping on the couch at night in a common area.

6. I was with Karen on June 24 when we saw D. with a staff member, who was trying to feed him. D. was refusing to eat with the staff member. When Karen started to approach to offer to help, the staff member took D. away and put him in the medical unit. D. was crying.

7. A little later, I and some of the other women went to the medical unit. I could hear D. inside crying. I tried to enter the medical unit but the door was locked. Karen did not gather any group around the medical unit or tell any of us to gather there. We gathered because we were worried about the crying three-year-old child. Karen then called her attorney to tell her about the treatment of D.

8. I understand that the government has accused Karen of remaining outside after she was told to come in because of the heat on August 14. I was present during this incident. Karen did nothing wrong.

9. That day, we went outside to pray and join a vigil that supporters had organized against our long detention.

10. A staff member came and talked to us, using some Spanish words but not communicating clearly. I was able to understand from him that a supervisor thought we should come inside because it was hot. I thought it was a suggestion to come inside. We responded that we were okay. I did not feel very hot.

11. It had been hotter the week before, but we were allowed to go outside every day until after we participated in this vigil. I believe the staff decided to keep us inside because of the vigil, not because of the heat.


12. I was present with other mothers for two recent meetings with ICE Field Office Director Thomas Decker. Our attorneys were not allowed to come to the meetings. He spoke to us with a translator. He told us that he could not release us because of our federal case. Later, he released some fasting women who also had negative asylum hearings but did not file federal cases. He also threatened us, saying that if we did not stop fasting he could send us to Texas or take our children away.

I declare under penalty of perjury of the laws of the state of Pennsylvania and the United States that the foregoing is true and correct to the best of my knowledge and recollection.

Wendy Osorio
Wendy Amparo Osorio Martinez

8/30/16
Date

I certify that I am proficient in the English and Spanish languages and that I read the foregoing to Wendy Amparo Osorio Martinez in Spanish.



Oscar Sarabia

8/30/16
Date

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

ROSA ELIDA CASTRO, *et al.*,

Appellants

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY (“DHS”), *et al.*,

Appellees

NO. 16-1339

Declaration of Jethzabel Maritza Aguilar Mancia in Opposition to Government’s Motion
to Transfer

I, Jethzabel Maritza Aguilar Mancia, make this declaration based on my personal knowledge, and if called upon to testify, I could and would testify as follows:

1. I am a 40-year-old Salvadoran mother.
2. My son and I are Petitioners-Appellants in this case and are detained at Berks family immigration detention center in Leesport, Pennsylvania. We have been locked up for ten months.
3. Karen Margarita Zelaya Alberto and her little boy have been detained at Berks during this same time, so I am very familiar with them.
4. Karen is brave and willing to speak on behalf of other women who are more afraid. I believe the Berks staff and ICE see Karen as a leader of the women at Berks.
5. I understand that the government is trying to say that Karen is a bad influence on us other mothers and that she tells us not to listen to the staff and to break the rules, but that is untrue. She has never tried to tell me to do anything bad, disobey the staff, or violate rules.

6. I understand that the government says that Karen tried to force feed a child on June 24. I was there at the time, and that is not true.

7. The child involved, "D.," was three years old. D.'s mother was sick and went to the hospital a few days before. We all worried about D. and tried to help take care of him.

8. During this time, D. often would not eat the food presented to him by Berks staff. I saw staff members put food in front of him and then walk away. But he did not like that food and would not eat it. The staff did not seem to care whether he ate or not. I also noticed that he was wearing the same dirty clothes for days. I saw him sleeping at night on a couch in the common area.

9. D. was very comfortable with Karen. The day before this incident, June 23, I saw Karen give cereal to D. This was her personal food for her family, but she shared it with him because he was not eating the food provided by Berks. He ate the cereal.

10. On June 24, I was with Karen when we saw D. with a staff member. The little boy seemed upset. When Karen started towards D. to help, the staff member took D. away and put him inside the medical unit. I could see him kicking the door of the medical unit, trying to get out. Karen never tried to force feed D.

11. Karen did not gather anyone around the medical unit. But several of us did go to the medical unit because we were worried about the three-year-old boy. Seeing him upset like that really bothered all of us, especially as mothers. Eventually Karen called her attorney to talk about what was happening.

12. ICE Field Office Director Thomas Decker held two meetings with me and other women recently to talk about our fast. Our lawyers were not allowed at those meetings. He had a translator. He said he could not release us because we had federal cases. He also threatened to

send us to Texas or take away our children if we did not eat. Later, he released some women who also had negative asylum hearings but had not filed any federal cases.

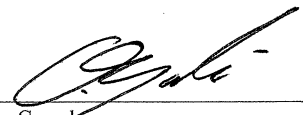
I declare under penalty of perjury of the laws of the state of Pennsylvania and the United States that the foregoing is true and correct to the best of my knowledge and recollection.



Jethzabel Maritza Aguilar Mancía

8-30-16
Date

I certify that I am proficient in the English and Spanish languages and that I read the foregoing to Jethzabel Maritza Aguilar Mancía in Spanish.



Oscar Sarabia

8/30/16
Date