

**DECLARATION OF JAVIER HIDALGO,**  
**THE REFUGEE AND IMMIGRANT CENTER FOR EDUCATION AND LEGAL**  
**SERVICES**

Pursuant to 28 U.S.C. § 1746, I, Javier Hidalgo, declare under penalty of perjury as follows:

1. I am an attorney licensed to practice in the states of New York and Texas.
2. I am currently employed as Director of Pre-Removal Services with the Refugee and Immigrant Center for Education and Legal Services (RAICES). I have been an attorney at RAICES since August 2018, and Director of Pre-Removal Services since January 2022. RAICES's Pre-Removal Services team is based out of San Antonio, Texas.
3. I make this sworn statement based upon personal knowledge, review of files and documents regularly maintained by RAICES, as well as reliable information supplied to me by RAICES colleagues and staff that I supervise.
4. RAICES is a 501(c)(3) nonprofit agency based in San Antonio, Texas, that promotes justice by providing free and low-cost legal services to underserved immigrant children, families, and refugees. With legal services, social programs, bond assistance, and an advocacy team focused on changing the narrative around immigration in this country, RAICES operates on the national frontlines of the fight for immigrants' rights.
5. RAICES provides pro bono legal services to low-income immigrants, including immigrants in immigration detention. RAICES provides legal services to people in detention facilities across Texas, including Laredo Processing Center (Laredo), located at 4702 East Saunders, Laredo, Texas 78401.

**Obstacles to Access to Counsel at Laredo**

6. RAICES provides representation to individuals detained at Laredo in bond hearings, parole requests, requests for release under *Frailhat v. ICE*,<sup>1</sup> and requests for Immigration and Customs Enforcement (ICE) supervisory review of release requests, as well as expedited removal proceedings. The RAICES team that provides these services at Laredo currently has five attorneys, including myself, four legal assistants, three data entry staff, and an administrative assistant. All attorneys on this team provide representation at Laredo.

7. Since 2021, RAICES has represented approximately 18 people detained at Laredo. However, as a direct result of the obstacles to attorney-client communication described herein, in April 2022, RAICES paused new intakes of individuals detained in Laredo. If it became easier to communicate with clients at Laredo, RAICES would resume taking new cases at the facility.

8. While RAICES has a staff presence in Laredo, Texas, those staff members are restricted by grant funding from working with detained populations, including RAICES clients detained in Laredo. The closest RAICES offices that provide the legal services needed by individuals detained in Laredo are in San Antonio, Texas. Laredo is at least 170 miles, or a three- to four-hour drive, from RAICES's San Antonio offices. For that reason, attorneys in those offices must rely almost exclusively on remote representation to serve clients detained at Laredo.

9. RAICES's ability to provide legal services is severely constrained by the difficulties we face in communicating with people detained at Laredo. These barriers to communication include the lack of access to legal video-conferencing (VTC), no reliable method to schedule legal

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<sup>1</sup> Pursuant to a preliminary injunction in *Frailhat v. ICE*, 9, 445 F. Supp. 3d 709 (C.D. Cal. 2020), *rev'd and remanded*, 16 F.4th 613 (9th Cir. 2021), ICE was required to conduct custody redeterminations for detained individuals with certain risk factors that made them more vulnerable to COVID-19.

telephone calls that take place in a private space, fifteen-minute time limits and lack of a private space for outgoing telephone calls to attorneys by clients, delays in legal mail such that mail cannot be used for time-sensitive proceedings, in-person visitation rooms that do not allow for confidential communications, and lengthy waits for in-person visits because the facility has only two attorney-client visitation rooms.

10. These barriers to attorney-client communication at Laredo mean that our attorneys have to spend more time on each case in order to provide adequate representation, which reduces our capacity to take other cases in general and at Laredo in particular. Overcoming these obstacles to visit just one client means that a remote meeting at Laredo takes, at minimum, double the time and resources from RAICES staff as meeting a client at any other detention center where Pre-Removal Services currently operates.

11. The delays and difficulties in contacting detained clients causes significant harm to detained clients at Laredo, because delay in collecting information necessary to support a claim for release may prolong a client's detention. To make an effective request for release, either to ICE or to an immigration judge, we need to gather a range of information from our clients, including details about their ties to the United States, their immigration history, the merits of any claim to immigration relief (a stronger claim for relief makes release much more likely), details about any criminal history and mitigating circumstances, and information about any specific vulnerabilities or unique characteristics that render a client particularly at risk in detention (such as physical or mental health conditions, sexual orientation or gender identity). To gather this privileged information, much of which is highly sensitive, we need to have confidential conversations with our clients—frequently multiple conversations—as well as time to gather

supporting records. Any obstacles to having those conversations delays our ability to make a compelling request for release from ICE or prepare for a bond hearing.

12. For example, we had a female client who suffered from painful cysts that were exacerbated by the fact that ICE had taken away her birth control medication, as well as chronic sinusitis—conditions that ultimately formed the basis of our request for release with ICE. Due to past trauma, she was only comfortable speaking with female RAICES staff. But delays in scheduling private calls slowed our ability to gather and document this important medical information, which in turn delayed our release request and unnecessarily prolonged our client’s detention. The local ICE office initially denied our release request, but ICE eventually released our client after we sought supervisory review. Were it not for the delays caused by access barriers, our client would have been released sooner.

13. RAICES’ detained clients at Laredo and other ICE detention facilities are generally unable to bring federal lawsuits themselves to challenge barriers to attorney access. They frequently do not speak English, have a limited knowledge of the U.S. legal system, have no access to legal resources beyond those provided by RAICES, and/or may be removed before they can initiate litigation. In addition, our detained clients are often hesitant to sue federal immigration authorities themselves, given that they are in federal custody and worry about retaliation. All of these limitations are exacerbated by the barriers to attorney access in detention. What limited access RAICES’ clients have with their attorneys is used to prepare for the more immediate demands of their immigration cases, including their bond proceedings or parole requests.

14. RAICES provides legal services to individuals at several detention centers. It is impossible to schedule and execute meetings with multiple clients at different detention centers

when counsel cannot make a firm appointment to meet with their client over the phone. Under the current system at Laredo, attorneys are forced to keep large blocks of time open and available in order to have the best chance of speaking with a client at Laredo whenever a telephonic meeting can actually be facilitated. We have canceled or rescheduled other visits with clients in other detention centers in order to remain available for a call from Laredo. Even then, we might still not be able to speak with our client at Laredo. This limits our ability to have remote visits with other clients at other detention centers and greatly limits the number of clients we can speak with in a business day.

15. Because of these obstacles, we have experienced a significant negative impact on our daily operations and ability to provide services to our clients at Laredo and at other detention centers. When taking into consideration the time needed to arrange a telephone call with clients, continuing to take cases at Laredo proved to be too onerous for our team. We had to make the difficult decision to pause taking cases at Laredo. Were these obstacles to counsel removed, RAICES would resume taking cases from Laredo. This pause in our services due to lack of access frustrates our mission to provide legal services to detained immigrants in Texas detention facilities. It also deprives detained immigrants the benefit of free legal representation and services from RAICES.

#### **Lack of VTC Technology**

16. Unlike other detention facilities in Texas, Laredo does not offer access to VTC technology for attorney-client visits. VTC technology, if the video and audio are of sufficient quality and the calls are private, provides an important way to communicate with clients, develop attorney-client trust and rapport, and allow clients to discuss sensitive details of their cases. It is more difficult to communicate with clients, especially clients we are unable to meet with in

person, when we cannot see each other's faces. In addition, lack of access to VTC prejudices clients by creating an obstacle to robust psychological evaluation. Psychological evaluations are often crucial in our representation as many of our clients have experienced significant trauma or suffer from untreated mental health conditions, all of which can impact important aspects of their claims for release and eventual relief. While attempting to coordinate a psychological evaluation for one client in support of her request for release and reconsideration of a negative credible fear determination, a RAICES attorney was unable to pre-schedule an evaluation and thus was unsure if the psychological evaluation would be possible at all given the psychiatrist's schedule. Although the evaluation was able to take place, the psychiatrist expressed that the lack of VTC made it impossible to evaluate the body language and facial expressions of the client, which are essential pieces to a psychological evaluation. This undermined the strength of the evaluation. ICE denied our request for release and our client was ultimately deported.

#### **Inadequate Telephone Access**

17. There are only two ways to talk to clients on the phone at Laredo. Neither are sufficient for effective attorney-client communication.

#### ***Calls from Public Phones***

18. The first method for attorney phone calls at Laredo requires a client to call an attorney using a free hotline set up by RAICES Pre-Removal Services from a telephone located in a public, non-confidential setting in the housing units at the facility. The line operates in all the detention centers that Pre-Removal Services serves, including Laredo. RAICES pays \$4.99 per month for the line, \$109.99 per month for the first 5,000 toll-free minutes, plus \$100.00 per month for each additional 2,565 toll-free minute bundle. The cost to maintain the hotline in July

2022 was approximately \$582.41. Even though RAICES pays for the hotline, the Laredo facility limits these calls to 15 minutes, so after 15 minutes the call automatically drops. When the call drops, an automated voice in Spanish and English announces the call has dropped. Several Haitian Creole-speaking clients were disturbed by this message, which they could not understand, because they thought someone had been listening to their call. Clients are often confused by the frequent cut offs, and several minutes at the beginning of the next call are used to explain the phone system and why the call was cut off, leaving very little of the 15-minute call for substantive discussions. In addition, even when clients understand why the calls are cut off, they are often distracted by the abrupt ending to the call or were cut off in the middle of a sentence without realizing, and cannot recall what they were about to share. As a result, clients lose their train of thought, or counsel does not hear part of what they related, leading to a loss of information and spending time on the next call retelling what was said on the last call.

19. In addition, calls on RAICES's free hotline cannot be scheduled. Instead, attorneys must leave several messages with facility staff requesting a time and date for the client to call from their housing unit and hope that the message is successfully delivered to the client. The facility does not inform the attorney whether they have delivered the message to their client, or whether the client has confirmed they will call the attorney. As a result, this message delivery system is not reliable. Attorneys will call repeatedly over the course of a day to request that a message is delivered. Sometimes, a client will eventually call, but often not at the time the attorney originally requested. Clients frequently report that despite the several messages left by the attorney with the facility, the client received only one message.

20. While calls to the RAICES hotline from the public phones are not recorded and are free, this is only because RAICES provides a free hotline approved by Talton, the telephone service

provider. However, it is impossible to have a confidential call on the hotline—other detained people and guards standing near the phone can hear our clients on the phone. The sound quality on these calls is also frequently bad – the sound may be garbled, full of static, or includes an echo that makes it very difficult to communicate.

21. The lack of privacy, time limits, and poor quality of the calls make it extremely difficult, if not impossible, to have a meaningful conversation with a client calling our free hotline, especially when it is necessary to discuss sensitive details of a client’s case. For example, our clients, a lesbian couple at Laredo, experienced harassment and threats of violence from other detainees on account of their sexual orientation. Because of the lack of confidentiality for these calls, and the long delays to schedule private calls with the facility (discussed further below), it took several meetings for these clients to feel comfortable enough to express to counsel their sexual orientation. Our clients could not convey details regarding the harm they suffered because they were lesbian women due to the fact that other detainees could overhear their conversations with us and would insult and threaten to harm the clients whenever their sexual orientation was brought up on phone calls with us. Our ability to advocate for and request that the facility separate and protect them from the other detainees was thus delayed, causing them to face entirely avoidable harassment and threats, because the communication barriers at Laredo made it nearly impossible for us to discuss with our clients the harassment they were suffering and options for how they wished to request changes while in detention.

22. In addition, it is very difficult to conduct these truncated calls with an interpreter, because the interpreter must wait on hold on a third-party line each time the call drops, and then reorient the client when he or she calls back.



*Attorney Phone Calls*

23. The second method to communicate with a client by telephone at Laredo is to arrange for a private attorney phone call. However, there is no reliable, consistent way to schedule these calls in advance. RAICES attorneys have tried different approaches to arrange legal phone calls at Laredo that are unmonitored, but also take place in a private room. Our team generally arranges these calls through a facility employee responsible for setting up private legal visits. However, this process is unreliable and full of problems. On at least one occasion, that employee unilaterally decided that a client call from a public phone line in the housing unit to an unmonitored attorney line would suffice. A RAICES attorney spent hours clarifying that a private attorney call not only needed to be unmonitored but also made from a private place.

24. Even after that issue was finally resolved, the facility employee has refused to schedule legal calls in advance. Instead, to have a legal call in a private room on any given day, RAICES attorneys have to send a list of telephone visitation requests in the morning and follow up several times during the day to see if the scheduled calls can occur. The rooms where these calls happen are the same rooms used by U.S. Citizenship and Immigration Services (USCIS) to conduct asylum interviews. Whether or not the attorney can arrange a call on a given day depends on whether a room happens to be available. The facility generally does not tell attorneys in advance if a call will be possible on the day requested, so RAICES staff must remain available the entire day, in case the facility employee calls back with availability—sometimes with just five minutes notice. If the facility says that there is no availability that day, the attorney has to call again the next day. Often, the facility employee does not respond to visit requests for days at a time, then responds two to three days later saying that he will be calling the attorney in five minutes. Given the lack of timely response, RAICES attorneys have at times not been able to be immediately

available to take such calls, or have had to take the calls without adequate opportunity to review the client's case before beginning to speak to the client.

25. These communication barriers and delays at Laredo at times have produced frustration and mistrust in the attorney-client relationship: clients often believed that delayed communication was the fault of attorneys who did not attempt to contact them. The lack of scheduled phone calls also degrades the relationship because unexpected calls cause attorneys to be less prepared when speaking with their clients, due to their inability to sufficiently review client files in advance.

26. There are more examples of the difficulties faced by RAICES attorneys in scheduling legal calls at Laredo. For example, a RAICES attorney was forced to track down her clients' assigned Immigration and Customs Enforcement (ICE) deportation officer because the Laredo facility employee responsible for arranging legal calls failed to arrange the legal call. To do this, the attorney had to contact different deportation officers multiple times until she obtained the name and telephone number of her client's deportation officer. The attorney then called the assigned deportation officer and repeatedly pressed her to reach out to the facility employee responsible for arranging calls. Eventually, the deportation officer reached out to the facility employee. For a time, the attorney was able to schedule calls by emailing both the assigned deportation officer and the employee. However, when the client was assigned a new deportation officer, the attorney again had to track down that deportation officer and again press this new deportation officer to instruct the employee to facilitate the calls. The facility employee ignored the attorney's requests when the deportation officer was not involved.

27. Telephone protocols for scheduling legal calls at Laredo are not publicly available. RAICES staff have learned them from our informal experiences interacting with ICE and facility

staff to attempt to coordinate telephonic visitation. Telephone protocols are not posted at the facility, online, or in any other public place. When the one and only facility employee responsible for legal calls is on vacation or otherwise out of the office, there is no alternative way to schedule calls. This means that until that employee is back in the office, calls either may not be facilitated, or RAICES attorneys spend most of the day attempting to establish another way to try and schedule a call with their detained clients.

28. Our attorneys witnessed first-hand the negative effects of the lack of access to counsel on clients' mental health while they were detained at Laredo. At the onset of the COVID-19 pandemic, one of our attorneys worked with a client who was transferred from the Karnes detention center in Texas to Laredo. The client suffered severe trauma-induced and health-related problems, with symptoms consistent with post-traumatic stress disorder. Once the client was detained in Laredo, his mental and physical health eroded further because he could not consistently communicate with his attorney. He was increasingly depressed, had difficulty maintaining focus, and experienced increased incontinence. His illnesses severely impacted his ability to participate in his case. Our attorney had to call the facility every hour for four to five hours, if not longer, before the facility finally delivered the messages and the client called back. This client did not speak Spanish or English, and it is unclear how the facility conveyed our messages to the client, if at all, because facility staff only speak English and Spanish. At that time, the client was only permitted to make calls that lasted for approximately ten to fifteen-minute intervals, which caused unnecessary anxiety for him and considerable time was spent just trying to overcome the disruption of having to reconnect the call with the client, language interpreter, and attorney every few minutes. As the client's mental health deteriorated at Laredo, our attorney had to spend precious time providing emotional support for this client in order to

ensure the client could participate in his own case, further limiting the legal services we were able to provide to other clients detained at Laredo and elsewhere in the face of the access-to-counsel hurdles. On several occasions the attorney had to spend the better part of a day reaching out to ICE to request that they instruct the facility to arrange calls with this vulnerable client.

### **Delays in Legal Mail**

29. Delays in legal mail and exchanging documents with clients detained at Laredo also hinder our representation and daily operations. The facility's internal mail delivery system is too slow for fast-moving cases and delays our ability to make release requests. A RAICES attorney has tried to send documents by FedEx, but there was a lag of several days between the package's arrival at the detention facility and delivery to the client. Guards open all mail – even mail marked “legal” – outside the presence of the detained person.

30. Unlike at other ICE detention facilities in Texas, including Karnes and the South Texas ICE Processing Center in Pearsall, Texas, it is generally not possible to send or receive faxes from clients detained at Laredo. It appears to depend on the particular guard on duty and there is no clear policy about faxing documents.

31. Unlike at other ICE detention facilities in Texas, such as T. Don Hutto Residential Center, it is not possible to email documents for clients detained at Laredo to review, sign and return. People detained at Laredo have no access to email.

### **Obstacles to In-Person Visitation**

32. It is generally cost- and time-prohibitive for RAICES attorneys to go to Laredo. The time it takes to travel between our office to Laredo is three to four hours each way, resulting a total of up to eight hours to visit the facility. However, on a few occasions we have made the trip because there was an urgent court-related deadline which required obtaining a client's signature.

In those instances, there were significant obstacles to attorney access. There are only two attorney visitation rooms for a facility with a maximum capacity to detain over 400 people, which can lead wait times that are over an hour. In our experience, there is no way to schedule an in-person visit in advance to avoid the wait.

33. There is no privacy in those visitation rooms because the walls are thin and allow sound to pass freely. The visitation rooms are right next to each other, and the waiting area is immediately outside the visitation rooms, so it is easy to hear what is said inside the visitation rooms. RAICES staff have been able to hear others' conversations inside visitation rooms while waiting outside the rooms and while meeting with clients. The facility prohibits attorneys from bringing in any technology to the detention center, so RAICES attorneys cannot use laptops or cell phones in their visits. As a result, attorneys cannot show electronic documents or simultaneously draft or edit declarations or other court documents during their all-day visit to the facility.

34. There is no telephone available in the visitation room for telephonic interpretation, and attorneys are not permitted to bring in cell phones to legal visits. Instead, attorneys must arrange to bring in an interpreter in person, who must first be approved by ICE, in a process that can take between six months and one year. It is often impossible to find interpreters for less common languages, such as Russian, who are available and willing to travel to rural Laredo. These problems with in-person visitation make it virtually impossible to meet with clients who do not speak their attorney's language. For example, in a case involving a bond application for a Haitian woman, the RAICES attorney did not speak Haitian Creole, so the client had to bring another detainee who spoke fluent in Haitian Creole and knew some Spanish, so that our attorney and her

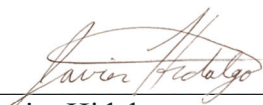
client could communicate. We could not arrange for an in-person interpreter and there is no option for telephonic interpretation.

**Conclusion**

35. Because of all these obstacles, RAICES has struggled to meet our clients' needs and was forced to pause taking new cases from Laredo. As a result, inadequate access to counsel at Laredo directly harms RAICES's organizational mission and daily operations, which include providing the highest quality direct representation to detained immigrants at Laredo and other facilities in Texas.

36. Certain basic attorney access improvements, such as providing access to private VTC calls, promptly scheduling private attorney calls of at least two hours, ensuring timely mail delivery within the facility, permitting detained individuals to fax or email documents to their attorneys, increasing the number of attorney visitation rooms that provide real privacy, providing access to a telephone line during in-person visits to allow for telephonic interpretation, and permitting attorney to bring technology such as laptops and cell phones into the visitation room would significantly address the issues RAICES faces representing clients at Laredo, would reduce the harm caused by the currently-existing access-to-counsel barriers on RAICES's daily operations, and allow RAICES to resume accepting new cases at Laredo and represent more detained immigrants in Texas.

I declare under the penalty of perjury that the foregoing is true and correct. Executed this 15th day of November, in San Antonio, Texas.

  
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Javier Hidalgo