

Declaration of Tanika Vigil

I, Tanika Vigil, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am a 31-year-old resident of Denver, Colorado.
2. I am a 2014 graduate of Harvard Law School. At Harvard Law School, I co-directed the Bond Hearing Project, which represented detained immigrants at their bond hearings in immigration court.
3. Since law school, I have represented immigrants as an Immigrant Justice Corps fellow with Legal Services of New York City and as an attorney at the Rocky Mountain Immigrant Advocacy Network (“RMIAN”). I also clerked at the Colorado Supreme Court.
4. I am currently a consulting attorney for the Catholic Legal Immigration Network, Inc. (“CLINIC”) on immigration matters, including its partnership with Lawyers for Good Government’s (“LAGG”) Project Corazon. LAGG is a non-profit organization, and Project Corazon is LAGG’s immigration project that, among other things, deploys *pro bono* attorneys to address urgent immigration needs nationwide under a rapid response legal model.
5. As part of its collaboration with Project Corazon, CLINIC has received 52 requests from individuals who were arrested during workplace raids in Mississippi on or about August 7, 2019, and were interested in obtaining *pro bono* representation in their immigration bond matters.
6. In my capacity as a consulting attorney for CLINIC, among my other responsibilities, I support the LAGG Project Corazon *pro bono* attorneys representing the detained Mississippi raid victims at bond hearings held pursuant to 8 U.S.C. § 1226.
7. I personally assisted and advised *pro bono* attorneys for twelve individuals who were detained at the Richwood Correctional Center in Richwood, Louisiana, and were scheduled to appear at the Immigration Court in Batavia, New York by videoconference.
8. None of these volunteer attorneys lived in either Louisiana or upstate New York and agreed to the representation assuming they would be able to appear at the hearing by telephone.
9. Judge Baumgarten either denied or did not rule on all twelve motions to appear telephonically at their clients’ bond hearings. In one case, the attorney filed a renewed motion to appear telephonically after appearing in person at the first hearing, which was granted.

10. Judge Baumgarten's practice of denying motions to appear telephonically was not limited to the individuals and attorneys with whom I was working. Private attorneys representing other individuals detained in Richwood also reported to me that their telephonic motions had been similarly denied.
11. The denial of motions for telephonic appearance substantially undermined pro bono attorneys' ability to represent their clients.
12. When *pro bono* attorneys' motions to appear telephonically were denied, those attorneys expressed significant concern about their ability to continue with representation through the hearing, as they would have had to undertake expensive and time-consuming travel from California, Florida, or other places to either Richwood or Batavia in order to appear in person.
13. In fact, the immigration judge who was initially hearing the cases in Batavia was herself sitting in the Buffalo Immigration Court. Since travelling to Batavia necessitated flying to Buffalo and then driving 45 minutes to Batavia, one of the attorneys asked whether they could go to the judge's courtroom in Buffalo. He was told that he could not, because that would constitute a telephonic representation -- the hearing was being held in Batavia. The result was that for all bond matters scheduled at Batavia where the motion for telephonic appearance was denied, hearings were conducted with the client appearing via VTC from detention in Louisiana, the IJ appearing via VTC from Buffalo, and the pro bono attorney traveling to Batavia to appear in a third, separate location.
14. To address the concerns of the pro bono practitioners, and to protect the interests of the individuals detained, L4GG and CLINIC had to arrange for substitute or additional counsel to appear in person at the Batavia Immigration Court for bond hearings when the original counsel could not do so.
15. These substitutions occurred in seven out of ten cases where the Richwood clients moved forward with their bond requests and where the Batavia Immigration Court judges denied motions to appear telephonically.
16. Substitute counsel had not undertaken the same evidence gathering, fact-finding, briefing, communication and rapport-building with detained clients, and other preparation that the initial pro bono attorneys had undertaken.
17. In one case in particular, a judge at the Batavia Immigration Court rejected filings, and a substitute attorney had to decide on the spot whether to proceed at the bond hearing without documents, or delay the hearing by three months. That substitute attorney did not know the client well and could not speak to the client privately during the hearing because of their respective locations but had to make the difficult decision to delay the hearing. That client, who had already been detained for about three months before the

initial bond hearing was scheduled, ultimately requested a removal order rather than face ongoing detention for three additional months before he could be considered for release on bond.

18. Arranging for, mentoring, and advising new or substitute counsel also required CLINIC to expend substantial resources.
19. Pro bono or volunteer attorneys that we worked with also had to allocate more resources as a result of the denied motions for telephonic appearance and expressed concern about the possibility of having to expend those resources on representing other detained individuals at bond hearings in the future.
20. I know of no Batavia Immigration Court bond hearing where a judge considered a detained individual's ability to pay or alternatives to bond.
21. One individual had a \$12000 bond granted by a Buffalo Immigration Court judge (after having been transferred from the Batavia Immigration Court) despite his pro bono attorney pleading that the amount was too high, and that a lower amount would have been appropriate.
22. Every individual granted bond by the Batavia Immigration Court whose attorneys I have advised needed to seek out donated funds in order to post their bond and be released from detention. This was because the individual did not have sufficient ability to pay the bond that was set and, but for the donated funds, would have remained in detention.
23. Donated funds are not always available and often take time to help arrange and pay a detained individual's bond even after the bond amount has been granted.
24. In conclusion, the Batavia Immigration Court's bond hearing practices resulted in many Mississippi raid victims remaining detained for between 3-7 months and, in various cases, choosing deportation over continuing to fight their cases from detention.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th day of March, 2020.

